



## CHALLENGING YOUR PAROLE DENIAL IN CALIFORNIA STATE COURT

*Please note: This handbook was written by UnCommon Law staff. The information in this handbook is not intended as legal advice in any individual's case, and you should not rely upon it as such. This handbook is up-to-date as of July 2025. It does not reflect any changes to the law that may have happened since then. Providing you with this handbook does not create an attorney-client relationship and it is not an offer of additional services. If you have questions, please ask an experienced parole lawyer. If you have questions about UnCommon Law's services or resources, please write or call our office.*



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## CHAPTER ONE: INTRODUCTION

Parole denials and reversals can be devastating. Most people outside of prison will never know what it's like to talk about the most personal parts of your life to strangers who hold your freedom in their hands. No matter what happened during your hearing, you displayed bravery, strength, vulnerability, and courage simply by showing up.

As you consider next steps, you might be thinking about challenging your parole denial or reversal in court. If so, we hope this handbook can help you.

- **Section I** of this chapter gives you an overview of this handbook.
- **Section II** explains whom this handbook is made for.
- **Section III** describes what this handbook does and doesn't do.
- **Section IV** tells you where to go if you have questions that this handbook doesn't answer.



## I. How Do I Use This Handbook?

This handbook is broken into 5 main chapters. We encourage you to read through the whole handbook before you start working on your habeas petition.

- **Chapter One: Introduction.** You're here now. This chapter introduces you to this handbook. This chapter answers questions like: *Can this handbook help me? What if I have questions that this handbook doesn't answer?*
- **Chapter Two: California Habeas Petition Overview.** This chapter gives you basic information about habeas petitions and answers questions like: *What is a habeas petition? How do I decide whether to file a habeas petition? How long will it take for the court to decide my habeas petition? Will I be released if I win?* This chapter also includes a flowchart and timetable of the court process.
- **Chapter Three: Writing Your Habeas Petition.** This chapter walks you through writing a habeas petition. This chapter includes templates to help you write the main sections of your petition.
- **Chapter Four: Filing Your Habeas Petition in Superior Court.** This chapter explains how to file your habeas petition in a California superior court (which is where you typically first file a habeas petition). This chapter includes a checklist of documents to send to the court.
- **Chapter Five: Filing in the Court of Appeal After a Superior Court Denial.** This chapter explains how to file a habeas petition in the court of appeal if the superior court denied your petition.
- **Attachments.** We've also included attachments at the end of this handbook. **Attachment A** is a glossary that explains words and phrases you might see when challenging your parole denial/reversal. **Attachment B** discusses laws and court cases related to parole denials/reversals. **Attachment C** lists the mailing addresses of California superior courts. **Attachment D** is an official legal form you can use if the superior court hasn't responded to your habeas petition in the amount of time it's supposed to.

## II. Can This Handbook Help Me?

*This handbook might help you if . . .*

☒ You're incarcerated in the California Department of Corrections and Rehabilitation (CDCR)

**AND**

☒ You've had a parole hearing before the California Board of Parole Hearings (the Board)

**AND**

☒ The Board denied you parole or the Governor reversed your parole grant

*This handbook will NOT help you if . . .*

☒ You aren't eligible for parole

**OR**

☒ You've never had a parole hearing

**OR**

☒ Your parole hearing wasn't before the California Board of Parole Hearings

## III. What Does This Handbook Do? What Doesn't It Do?

*What this handbook DOES*

- This handbook explains how to challenge a parole denial or reversal by filing a habeas petition in California state court.
- This handbook explains how to argue that a parole denial or reversal was illegal because it wasn't based on evidence of current dangerousness.
- This handbook describes the major steps in the habeas petition process and what to expect.
- This handbook includes template habeas petition sections and arguments.

What this handbook DOESN'T do

- This handbook does **NOT** explain how to challenge:
  - Your parole *eligibility* (whether you have a right to a parole hearing);
  - Issues with the parole hearing *process*, including issues with lawyers, interpreters, or accommodations for disabilities;<sup>1</sup>
  - Other parole-related decisions, including parole rescissions or revocations, decisions to advance parole hearings, Nonviolent Offender Parole Review decisions, medical parole decisions, Offenders with Mental Health Disorders (OMHD) decisions, Sexually Violent Predator (SVP) decisions, or parole discharge decisions;
  - Criminal convictions, sentences, or resentencing decisions; or
  - Prison conditions or disciplinary actions.
- This handbook does **NOT** explain how to challenge your parole denial or reversal in *federal* court. Federal courts can't consider whether evidence supported your parole denial or reversal.<sup>2</sup> Therefore, this handbook will **not** help you preserve your right to pursue a claim in federal court.<sup>3</sup>
- This handbook does **NOT** explain how to challenge parole denials or reversal in other states. The rules and laws discussed in this handbook are specific to California.

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<sup>1</sup> This handbook focuses on the Board's/Governor's *ultimate decision* to deny you parole or to reverse your parole grant. By contrast, the parole hearing *process* refers to everything that led up to that decision, both before and during your parole hearing (for example, the Board giving you a lawyer or the Board considering confidential information). UnCommon Law regularly challenges issues in the parole hearing process. Please feel free to write to our office if you've experienced these types of issues.

<sup>2</sup> See *Swarthout v. Cooke* (2011) 562 U.S. 216, 221.

<sup>3</sup> See the Prison Law Office's *California Prison and Parole Law Handbook* to learn more about filing federal habeas petitions.

- This handbook is **NOT** intended as legal advice and **CANNOT** replace a lawyer. Each person's case is different, and the laws and information in this handbook may not be right for your situation.
- This handbook **CANNOT** tell you whether your specific parole denial or reversal was illegal.
- Using this handbook does **NOT** guarantee that the habeas petition you file will be legally or factually correct or sufficient.
- This handbook is **NOT** updated every time the law changes. Laws, regulations, and court rules change frequently. Therefore, information in this handbook may be incomplete or outdated. If you use the information in this handbook, it's your responsibility to make sure that it's still accurate.

#### **IV. What If I Have Questions That This Handbook Doesn't Answer?**

- For information about preparing for parole hearings in California, see:
  - UnCommon Law Parole Resources. You can request these resources by writing to UnCommon Law at 318 Harrison Street, Suite 103, Oakland, CA 94607 or calling (510) 271-0310. People with internet access can find our resources at [www.uncommonlaw.org](http://www.uncommonlaw.org).
- For information about filing state habeas petitions for other issues, federal habeas petitions, and other forms of legal advocacy, see:
  - The Prison Law Office Resources. You can find the *California Prison and Parole Law Handbook* on CDCR's electronic tablets and kiosks under *Law Library/California/Secondary Sources/The California Prison and Parole Law Handbook*. You can request other free resources by writing to Prison Law Office, General Delivery, San Quentin, CA 94964. People with internet access can find these resources on the Prison Law Office website at [www.prisonlaw.com](http://www.prisonlaw.com).

- For information about filing civil lawsuits in federal court to challenge mistreatment and bad conditions in prison, see:
  - The Jailhouse Lawyer's Handbook. You can request one by writing to The Center for Constitutional Rights (666 Broadway, 7th Floor, New York, NY 10012) or The National Lawyers Guild (P.O. Box 1266, New York, NY 10009-8941). People with internet access can find the handbook at [www.jailhouselaw.org](http://www.jailhouselaw.org).



## CHAPTER TWO: CALIFORNIA HABEAS PETITION OVERVIEW

Incarcerated legal advocates have been responsible for many advances in California’s parole system. However, challenging parole denials can be hard due to the limited access to legal information in prison.<sup>4</sup> If you’re thinking about challenging your parole denial in court, this chapter can give you an idea of what that would look like.

- **Section I** addresses some initial questions you might have about filing a habeas petition to challenge your parole denial.
- **Section II** explains the major stages of challenging your parole denial in California state court; it also has a flowchart and timetable of these different stages.
- **Section III** explains what will happen if the court grants or denies your habeas petition.

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<sup>4</sup> This handbook often uses the phrase “parole denials” to collectively refer to both parole denials by the Board and parole reversals by the Governor. The handbook will point out any information that’s specific to Board denials versus Governor reversals.

## I. Common Questions

This section addresses some of the first questions you might have if you're thinking of filing a habeas petition to challenge your parole denial. The goal of this section is to give you a sense of what to expect from the process, so you can decide if filing a habeas petition is right for you.

### **What is a petition for writ of habeas corpus (also known as a “habeas petition”)?**

A petition for writ of habeas corpus (pronounced HAY-bee-uhs COR-puhs) is a legal action that allows incarcerated people to challenge their imprisonment.<sup>5</sup> “Habeas corpus” is Latin for “you must have the body.” When you file a habeas petition, you're asking the court to review whether your imprisonment is legal.

You might have heard of someone filing a habeas petition to challenge their criminal conviction or sentence. In California, you can also file a habeas petition to challenge a parole denial.<sup>6</sup> If the Board of Parole Hearings denied you parole — or the Governor reversed your parole grant — and you believe the decision was illegal, you can challenge it by filing a habeas petition in California state court.

You can use many different legal arguments to challenge a parole denial. However, this handbook focuses on how to make the most common argument: arguing that your parole denial was illegal because there's no evidence that you pose a current, unreasonable risk to public safety.<sup>7</sup>

### **If I win my habeas petition, will I be released from prison?**

It depends. If the Board denied you parole and you win your habeas petition, you *won't* automatically be released — you'll get a new parole hearing about 3–6 months later.<sup>8</sup> However, if the Governor reversed your parole grant and you win

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<sup>5</sup> Pen. Code, § 1473.

<sup>6</sup> *In re Rosenkrantz* (2002) 29 Cal.4th 616, 655.

<sup>7</sup> We'll discuss what makes a parole denial illegal in **Chapter Three: Writing Your Habeas Petition**. You can also find cases that discuss different parole denial reasons in **Attachment B: Relevant Laws**.

<sup>8</sup> *In re Prather* (2010) 50 Cal.4th 238, 244, 257.

your habeas petition, you'll be scheduled for release and won't need another parole hearing.<sup>9</sup> **Section III** of this chapter goes into more detail about what happens if the court grants or denies your habeas petition.

### **How do I decide whether to file a habeas petition?**

The decision to file a habeas petition is both strategic and deeply personal. You must consider whether the law supports your argument, but there are other things to think about, too. Below are some questions to help you think through your decision. These questions won't tell you whether or not you should file a habeas petition, but they can help you view the decision from different angles.

- *Was I denied parole for reasons that I can change?* Sometimes, people are denied parole for things they have the power to change themselves. Other times, people are denied parole for things they can't change, no matter how hard they try. Filing a habeas petition might be helpful if you were denied parole because of something that you can't change.
  - Imagine that John<sup>10</sup> was denied parole because he was caught with a cellphone recently and was not honest about it with the Board. John has the power to change that for his next hearing by not getting caught with a cellphone again and taking more responsibility for his actions. As a result, John doesn't feel like he needs to file a habeas petition in his case because his own personal choices could change the outcome of his next hearing.
  - Now, imagine Alex. Alex has memory issues due to a traumatic brain injury. Alex was denied parole because they can't remember or explain what happened during the life crime. Alex doesn't think they'll ever be able to remember what happened during the crime, no matter how many hearings they go to. Alex decides to file a habeas petition because they don't think they can be granted parole without the court's help.

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<sup>9</sup> *In re Twinn* (2010) 190 Cal.App.4th 447, 473; *In re McDonald* (2010) 189 Cal.App.4th 1008, 1025.

<sup>10</sup> These examples are based on common scenarios, but they aren't based on real people.



- *Will filing a habeas petition impact my ability to prepare for another parole hearing?* Right now, you're scheduled to have a parole hearing at some point in the future. Even if you win your habeas petition, you may still need to have another parole hearing before you can be released.<sup>11</sup> Preparing for a parole hearing requires a lot of time, effort, and energy. Filing a habeas petition can also take a lot of time, effort, and energy. If you spend time and energy on your habeas petition, that might impact your ability to prepare for your next parole hearing.
  - Imagine that Jill was denied parole for 3 years. Jill is innocent of the life crime, but the Board doesn't believe she's innocent, so the Board denied her parole. The Board was happy with Jill's self-help programming and rehabilitative activities in prison, so she doesn't need to spend much time improving those before her next parole hearing. Jill decides to spend her time and energy on filing a habeas petition.
  - Now, imagine Jack: The Board denied Jack parole for 3 years because he hasn't done enough programming and doesn't have concrete release plans. Jack thinks the Board will probably advance his next parole hearing, which means that his hearing would happen about 18 months after his denial.<sup>12</sup> If Jack files a habeas petition and wins, he'll probably get a new parole hearing about 12–16 months after his original denial — just a few months earlier than if he hadn't filed a petition at all. Jack decides not to file a habeas petition so he can focus on programming and improving his release plans.
  - Finally, imagine Mo: The Board granted Mo parole, but the Governor reversed the grant because Mo hasn't done enough programming and doesn't have concrete release plans. Mo is currently scheduled to have a

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<sup>11</sup> As mentioned above, if the Board denied you parole, then winning your habeas means you'll get a *new parole hearing* — not immediate release. However, if the Governor reversed your parole grant and you win your habeas, you don't have to have another parole hearing before you can be released. We'll discuss this in more detail in **Section III** of this chapter.

<sup>12</sup> You can write to UnCommon Law for more information about advancing parole hearings.

parole hearing in 18 months. If Mo wins their habeas petition, they can be released without a new parole hearing.<sup>13</sup> However, Mo knows they'll have a parole hearing soon if their petition is denied, and they want to be prepared if that happens. Mo decides to focus on their programming and release plans during the daytime, while working on their habeas petition in the evenings.

### **When do I need to file my habeas petition?**

There's no strict deadline for filing a habeas petition challenging a parole denial in California state court, but there shouldn't be a "substantial delay."<sup>14</sup> You should try to file your habeas petition in the superior court within 11 months of your parole denial.<sup>15</sup> If you take longer than that, you should tell the court why you needed more time.<sup>16</sup>

### **Will the court give me a lawyer if I can't afford one?**

Not at the very beginning, but maybe later on in your case. In California, you don't have the right to have a lawyer help you challenge a parole denial. If you can't afford a lawyer and can't find one to represent you *pro bono* (for free), then you'll have to file your habeas petition *pro per* (without a lawyer). You can write on your habeas petition that you can't afford a lawyer and that you want the court to appoint (give) you one. If the court reads your habeas petition and thinks that your parole denial might have been illegal,<sup>17</sup> then the court must appoint you a lawyer to help with the rest of your case.<sup>18</sup> If that happens, the court will pay for your lawyer.

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<sup>13</sup> **Section III** of this chapter will go into more detail about what happens if you win a habeas petition challenging a Governor reversal.

<sup>14</sup> *In re Taylor* (2019) 34 Cal.App.5th 543, 556.

<sup>15</sup> *In re Hunter* (2012) 205 Cal.App.4th 1529, 1536–37 (filing a habeas petition 11 months after the denial became final was not a "substantial delay").

<sup>16</sup> *In re Clark* (1993) 5 Cal.4th 750, 765 ("a petitioner [must] explain and justify any significant delay in seeking habeas corpus relief").

<sup>17</sup> In legal language, this is called "making a *prima facie* case."

<sup>18</sup> California Rules of Court, rule 4.551(d)(1).

### **How much does it cost to file a habeas petition?**

You don't have to pay a filing fee to file a habeas petition in California state court.<sup>19</sup> However, other parts of the process may cost money (for example, postage to mail your habeas petition to the court).

### **How long will it take the court to decide my habeas petition?**

It generally takes 6 months to a year for a superior court to grant a habeas petition. That's because the court must give the Board/Governor a chance to respond before it can grant a habeas petition. Courts can deny habeas petitions much faster than they can grant them. A court could deny your petition within weeks of you filing it, though it typically takes at least 2 months. It can sometimes take closer to a year to get a final decision if the court asks for more information first. **Section II** of this chapter will go into more detail about the court process.

### **Will I have a court hearing?**

Probably not. Superior courts usually decide habeas petitions based on written arguments alone. They only have to hold a hearing if you and the Board/Governor disagree about an important *fact* in your case.<sup>20</sup> For example, if you disagree about *what happened* during your parole hearing, that's a factual disagreement. The court might hold an "evidentiary hearing" in that case.

If you agree about *what happened* but disagree about whether it was *against the law*, that's a *legal* disagreement. Superior courts don't have to hold hearings for legal disagreements. Most habeas petitions challenging parole denials/reversal involve *legal* disagreements. As a result, they usually don't have hearings. (This is different from resentencing petitions, which often have court hearings.)

### **Will I be up against the District Attorney?**

Probably not. The California Attorney General usually represents the Board/Governor in habeas petitions challenging parole denials. The court might

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<sup>19</sup> Gov. Code, § 6101 ("No fee shall be charged in proceedings upon habeas corpus").

<sup>20</sup> See California Rules of Court, rule 4.551(g)(1); *People v. Romero* (1994) 8 Cal.4th 728, 739–40.

notify the District Attorney about your habeas petition, but the District Attorney probably won't be formally involved in the case.

### **What are my chances of winning my habeas petition?**

No one can tell you that for sure. However, it's generally difficult to win a habeas petition challenging a parole denial, even if the denial felt really wrong. That's in part because courts have to follow certain laws when deciding habeas petitions, and our current laws make it hard for parole candidates to win.<sup>21</sup> With that being said, parole candidates win habeas petitions every year. Sometimes, their cases even change the law for the better.<sup>22</sup>

### **Should I go to my next parole hearing if I'm still waiting for the court to rule on my habeas petition?**

You can go to your parole hearing even if the court hasn't ruled on your habeas petition yet. Going to a new hearing doesn't mean that you're "giving up" your challenge to your previous hearing.<sup>23</sup>

However, you can also ask to put off your next parole hearing until the court decides your habeas petition. If you want to put off your hearing, you should request to **waive** your hearing using the BPH 1003 Form — you should NOT stipulate to being unsuitable for parole. You can ask to waive your hearing for 1, 2, 3, 4, or 5 years. Next to "Reason(s) for Request," you can write something like, "I currently have a pending habeas petition that challenges my previous parole denial. The resolution of my petition will directly impact my parole proceeding." You can write the name of the court (for example, Los Angeles Superior Court) and case

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<sup>21</sup> **Attachment B: Relevant Laws** has more information about the laws that apply when you're challenging a parole denial.

<sup>22</sup> These victories tend to happen in the court of appeal (after the superior court has denied the habeas petition).

<sup>23</sup> The court should still decide your habeas petition, even if you're denied parole at your next hearing. (See *In re Shelton* (2020) 53 Cal.App.5th 650, 673.)

number of your habeas petition to support your request. Note: You must request to waive your hearing at least **45 (calendar) days** before your hearing.<sup>24</sup>

### **Can the Board deny me parole because I filed a habeas petition?**

The Board can't legally deny you parole for exercising your right to challenge your parole denial in court.<sup>25</sup> However, the Board or District Attorney might bring up your habeas petition during your next parole hearing. This is especially true if the court denied your petition. For example, the Board might say, "I saw that you challenged your last denial. That's your legal right, but I want to make sure you understand the last panel's decision. Why were you denied parole? Do you now agree that you weren't suitable for parole?" You should speak with your parole hearing lawyer about the best strategy for answering these types of questions based on the facts of your case.

### **Can I file a habeas petition if I've filed one before?**

You should only file one habeas petition challenging the same parole denial in the superior court.<sup>26</sup> If you previously filed a habeas petition challenging something else (such as your conviction or sentence), then you can still file a habeas petition challenging your parole denial. You can even file a habeas petition if you've challenged other parole denials before. For example, if you were denied parole in 2021 and filed a habeas petition challenging that denial, then you could file another habeas petition if you were denied parole again in 2024.

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<sup>24</sup> Cal. Code Regs., tit. 15, § 2253, subd. (b)(2).

<sup>25</sup> See *In re Rosenkrantz* (2002) 29 Cal.4th 616, 664 (a parole candidate's right to due process is only meaningful if violations can be remedied).

<sup>26</sup> See *In re Friend* (2021) 11 Cal.5th 720, 731 (a new habeas petition shouldn't raise issues that could've been raised in an earlier petition). However, if the superior court denies your habeas petition, then you can file another habeas petition challenging the same parole denial in the court of appeal. **Chapter Five** will go into more detail about filing in the court of appeal. If the court of appeal denies your habeas petition, you can seek review in the California Supreme Court.

## II. Stages of a Habeas Petition

This section walks you through the major stages of the habeas petition process, from your parole denial/governor reversal until the superior court's final decision to grant or deny your petition. The stages can be a bit confusing, so we've also included a flowchart and timetable at the end of this section.

### 1. The Board denies you parole or the Governor reverses your parole grant

If the Board denied you parole, your parole denial will become “final” 120 days after your parole hearing.<sup>27</sup> Once your parole denial is final, you can file a habeas petition challenging it. If the Governor reversed your parole grant, you can file a habeas petition challenging it immediately. There is no formal administrative appeals process for challenging parole denials or reversals, so you don't need to “exhaust” (pursue) any administrative remedies before filing a habeas petition.<sup>28</sup> This is different from many other types of habeas petitions, which do have administrative “exhaustion” requirements.

### 2. You file your habeas petition

When? You should try to file your habeas petition within **11 months** of your parole denial.<sup>29</sup> If you take longer than a year, you should tell the court why you needed more time.<sup>30</sup>

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<sup>27</sup> Pen. Code, § 3041, subd. (b)(2).

<sup>28</sup> There *are* administrative appeals processes for other Board actions, including errors in comprehensive risk assessments (CRAs), youth parole eligibility decisions, decisions to advance parole hearings, “nonviolent offender” parole decisions, and disability accommodations.

<sup>29</sup> *In re Hunter* (2012) 205 Cal.App.4th 1529, 1536–37 (filing a habeas petition 11 months after the denial became final was not a “substantial delay”).

<sup>30</sup> *In re Clark* (1993) 5 Cal.4th 750, 765 (“It has long been required that a petitioner explain and justify any significant delay in seeking habeas corpus relief”).

Where? You generally need to file your habeas petition in the **superior court** when you first challenge your parole denial.<sup>31</sup> Specifically, you should file your habeas petition in the superior court of the county where you were convicted and sentenced for the life crime.<sup>32</sup>

### 3. The court issues an initial ruling (3 options)

The superior court is supposed to rule on your habeas petition within **60 (calendar) days** from when you filed it,<sup>33</sup> but courts sometimes take longer.<sup>34</sup> When it rules, the court will either (A) deny your petition, (B) order informal briefing, or (C) issue an Order to Show Cause.<sup>35</sup>

#### Option A: The court denies your habeas petition

If the court reads your habeas petition and decides that there *was* evidence to support your parole denial, the court will deny your petition. **This is a final decision** on your habeas petition. Technically, you can't "appeal" the court's decision; however, you can file a *new* habeas petition with the same arguments in the court of appeal.<sup>36</sup>

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<sup>31</sup> *In re Roberts* (2005) 36 Cal.4th 575, 593.

<sup>32</sup> *In re Roberts* (2005) 36 Cal.4th 575, 593. You can find your court's address in **Attachment C: California Superior Court Mailing Addresses**.

<sup>33</sup> California Rules of Court, rule 4.551(a)(5)(A).

<sup>34</sup> If the court hasn't ruled on your petition after 60 days, you can mail the court a completed and signed Form HC-004 Notice and Request for Ruling. (California Rules of Court, rule 4.551(a)(6).) A copy of Form HC-004 is at the end of this handbook in **Attachment D**. You should mail the court another copy of your habeas petition along with the HC-004 Form.

<sup>35</sup> California Rules of Court, rule 4.551(a)(8). An Order to Show Cause is a court order telling the Board/Governor to explain why you're still in prison. You'll read more about these orders when you get to Option C below.

<sup>36</sup> *Robinson v. Lewis* (2020) 9 Cal.5th 883, 895. **Chapter Five** has more information about filing your habeas petition in the court of appeal.

### Option B: The court orders informal briefing

If the court wants more information before making a decision about your habeas petition, the court can order informal briefing.<sup>37</sup> **This is not a final decision** on your habeas petition, and the court does not have to give you a lawyer at this time. If the court orders informal briefing, three things will happen: (1) the Board/Governor will file an informal response, (2) you'll file an informal reply, and (3) the court will make another ruling on your petition.

#### *Step 1: The Board/Governor files an informal response*

After the court orders informal briefing, the Board/Governor will get a chance to submit a letter arguing its side (the “**informal response**”).<sup>38</sup> A lawyer from the California Attorney General's Office will represent the Board/Governor. The Board/Governor usually gets **15 days** to submit its informal response, but it can ask for more time.<sup>39</sup> The Board/Governor must send you a copy of its informal response.<sup>40</sup> In its informal response, the Board/Governor will likely argue that your parole denial was legal because there's evidence that you're still dangerous.

#### *Step 2: You file an informal reply*

After the Board/Governor files its informal response, you'll have a chance to submit a written response (the “**informal reply**”). You should address anything the court mentioned in its order for informal briefing, and you should try to respond to any arguments or false statements that the Board/Governor made in its informal response. Some arguments from your original habeas petition may help you. Your informal reply can just be a letter to the court; it doesn't have to be formatted in any formal way. The court's order will tell you how long you have to submit your letter (**15 days** after the informal response is normal), but you can ask the court for more time.<sup>41</sup> Read the order carefully to make sure you follow all of its directions.

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<sup>37</sup> California Rules of Court, rule 4.551(b).

<sup>38</sup> California Rules of Court, rule 4.551(b).

<sup>39</sup> California Rules of Court, rule 4.551(b)(2), (i).

<sup>40</sup> California Rules of Court, rule 4.551(b)(2).

<sup>41</sup> California Rules of Court, rule 4.551(i).



*Step 3: The court issues another ruling (2 options)*

Once you and the Board/Governor have had a chance to submit your letters, the court will have **45 days** to either deny your habeas petition (see Option A above) or “issue an Order to Show Cause” (see Option C below).<sup>42</sup>

Option C: The court issues an Order to Show Cause

If the court reads your arguments and believes you’ve made a “*prima facie* case” (legally strong argument) that your parole denial was illegal, the court must issue an Order to Show Cause.<sup>43</sup> **This is not a final decision** on your habeas petition. The next section discusses what happens after the court issues an Order to Show Cause.

#### **4. If the court issues an Order to Show Cause**

An Order to Show Cause invites the Board/Governor to submit a formal argument against your habeas petition; it’s basically the judge’s way of saying, “From what I’ve read, this parole denial might have been illegal. I order the Board/Governor to explain why I shouldn’t grant this habeas petition and overturn the parole denial right now.” The court *must* give the Board/Governor this formal opportunity to be heard (even if Board/Governor already submitted an informal response).<sup>44</sup>

If the court issues an Order to Show Cause, four things will happen: (1) the court will appoint (give) you a lawyer, (2) the Board/Governor will file a return, (3) your lawyer will file a denial/traverse, and (4) the court will make another ruling on your habeas petition.

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<sup>42</sup> California Rules of Court, rule 4.551(a)(9).

<sup>43</sup> California Rules of Court, rule 4.551(c)(1).

<sup>44</sup> *People v. Romero* (1994) 8 Cal.4th 728, 740.

### Step 1: The court appoints you a lawyer

If the court issues an Order to Show Cause, **the court must appoint (give) you a lawyer** if you want one and can't afford one.<sup>45</sup> Note that it may take multiple weeks for the court to find and assign you a lawyer. The court will pay for the lawyer to represent you.

### Step 2: The Board/Governor files a return

After the court issues an Order to Show Cause, the Board/Governor gets to submit a written argument against your habeas petition (the “**return**”).<sup>46</sup> The Board/Governor will likely argue that your parole denial was legal because there is evidence that you're still dangerous. The Board/Governor usually gets **30 days** to file its return, but it can ask for more time.<sup>47</sup>

### Step 3: You file a denial/traverse

After the Board/Governor files its return, you and your lawyer will get a chance to submit a response (called the “**denial**” or “**traverse**”).<sup>48</sup> You *must* deny any statements in the Board/Governor's return that aren't true, or else the court will assume that you agree with the Board/Governor's statements.<sup>49</sup> The court's order will tell you how many days you have to submit your argument (**30 days** after the Board/Governor files the return is standard), but you can ask the court for more time.<sup>50</sup>

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<sup>45</sup> California Rules of Court, rule 4.551(d)(1); *In re Clark* (1993) 5 Cal.4th 750, 780.

<sup>46</sup> California Rules of Court, rule 4.551(e).

<sup>47</sup> California Rules of Court, rule 4.551(e), (i).

<sup>48</sup> California Rules of Court, rule 4.551(f).

<sup>49</sup> California Rules of Court, rule 4.551(f) (“Any material allegation of the return not denied is deemed admitted for purposes of the proceeding”).

<sup>50</sup> California Rules of Court, rule 4.551(f), (i).

#### Step 4: The court issues another ruling (3 options)

After you submit your denial/traverse, the court will have **30 days** to rule on your habeas petition.<sup>51</sup> The court will either (A) grant your habeas petition, (B) deny your habeas petition, or (C) order an evidentiary hearing.

##### **Option A: The court grants your habeas petition**

If the court decides that your parole denial wasn't supported by any evidence, the court will grant your habeas petition.<sup>52</sup> **This is a final decision** on your petition. The Board/Governor can appeal the superior court's decision within 60 days of the court granting your habeas petition.<sup>53</sup> If the Board/Governor doesn't appeal, the court's decision granting your habeas petition will become final.<sup>54,55</sup>

##### **Option B: The court denies your habeas petition**

If the court decides that your parole denial *was* supported by some evidence, the court will deny your habeas petition. **This is a final decision** on your petition. Unlike the Board/Governor, you can't appeal the court's decision; however, you can file a new habeas petition with the same arguments in the court of appeal.<sup>56</sup>

##### **Option C: The court orders an evidentiary hearing (rare)**

If you and the Board/Governor disagree about an important fact in your habeas petition, and the court needs to resolve the disagreement before it can decide your petition, the court will order an evidentiary hearing.<sup>57</sup> Evidentiary

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<sup>51</sup> California Rules of Court, rule 4.551(g)(1).

<sup>52</sup> *In re Rosenkrantz* (2002) 29 Cal.4th 616, 658.

<sup>53</sup> Pen. Code, § 1506; California Rules of Court, rule 8.308(a); *Jackson v. Superior Court* (2010) 189 Cal.App.4th 1051, 1064.

<sup>54</sup> *People v. Huff* (1975) 46 Cal.App.3d 361, 365.

<sup>55</sup> **Section III** of this chapter will explain what happens after a court grants your habeas petition.

<sup>56</sup> *Robinson v. Lewis* (2020) 9 Cal.5th 883, 895. **Chapter Five: Filing in the Court of Appeal** will discuss the court of appeal in more detail.

<sup>57</sup> California Rules of Court, rule 4.551(g)(1); *People v. Romero* (1994) 8 Cal.4th 728, 739–40.

hearings tend to be rare in parole denial challenges, as both sides often agree about the key facts.<sup>58</sup>

After your evidentiary hearing, the court will rule on your habeas petition. If the court decides that your parole denial wasn't supported by any evidence, the court will grant your habeas petition (see **Option A** above).<sup>59</sup> If the court decides that your parole denial *was* supported by some evidence, the court will deny your habeas petition (see **Option B** above). Both of these are **final decisions** on your habeas petition.

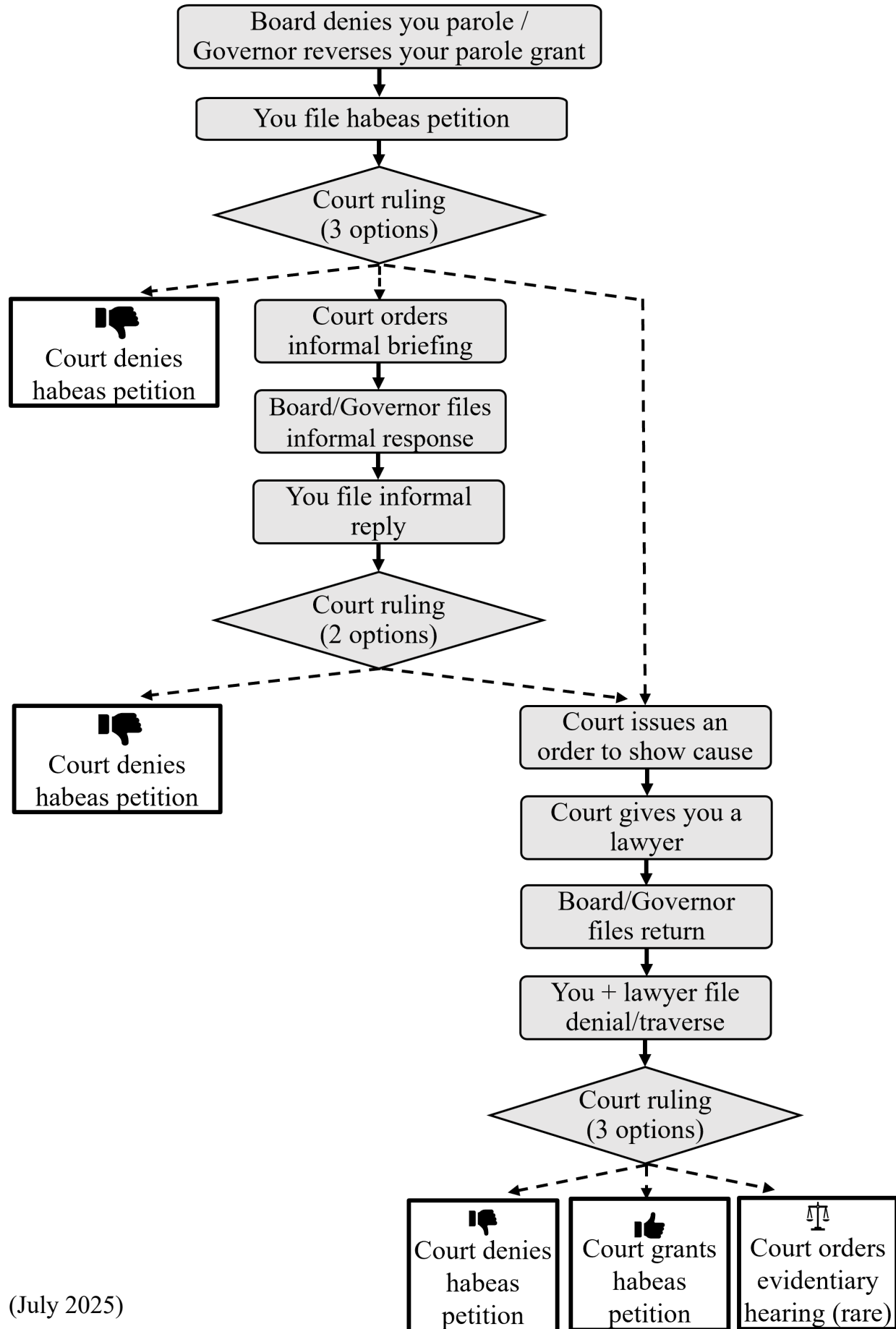
The next page has a flow chart that summarizes all of these steps.

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<sup>58</sup> Additionally, parole commissioners can't be questioned at an evidentiary hearing about why they denied someone parole. (*Hornung v. Superior Court* (2000) 81 Cal.App.4th 1095, 1099.)

<sup>59</sup> *In re Rosenkrantz* (2002) 29 Cal.4th 616, 658.

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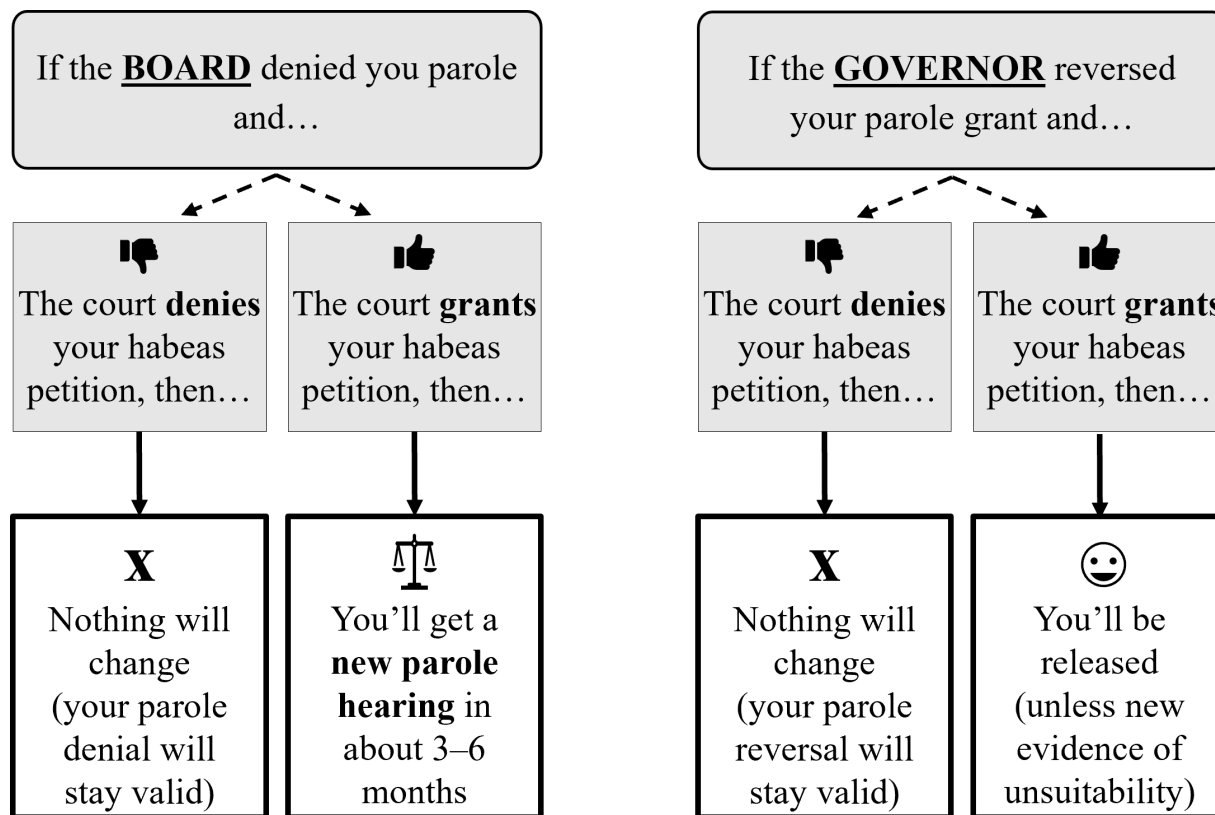
(July 2025)

Action	Time to take action (days = calendar days)
You file habeas petition	Within 11 months of your parole denial / reversal
Court makes initial ruling	60 days (can be extended)
Board/Governor files informal response (if ordered)	15 days (can be extended)
You file informal reply (if ordered)	15 days (can be extended)
Court makes another ruling	45 days (can be extended)
Board/Governor files return (if ordered)	30 days (can be extended)
You file denial/traverse (if ordered)	30 days (can be extended)
Court makes final ruling	30 days (can be extended)
<i>[If court grants your petition]</i> Board/Governor can appeal to the court of appeal	60 days
<i>[If court denies your petition]</i> You can file a new habeas petition using the same arguments in the court of appeal	10 months (if no lawyer) 120 days (if you have a lawyer)

### III. What Happens After the Court Decides My Habeas Petition?

If the court decides that there *was* evidence to support your parole denial/reversal, the court will deny your habeas petition.<sup>60</sup> If the court denies your petition, then your parole denial/reversal will stay valid, as if you hadn't filed a habeas petition at all.

If the court decides that your parole denial/reversal *wasn't* based on any evidence, then the court must grant your habeas petition.<sup>61</sup> What happens next depends on whether the Board denied you parole or the Governor reversed your parole grant. The flowcharts below give you a summary of what happens. There are more detailed explanations after the flowcharts.



<sup>60</sup> *In re Shaputis* (2011) 53 Cal.4th 192, 211.

<sup>61</sup> *In re Rosenkrantz* (2002) 29 Cal.4th 616, 658.

If the **BOARD** denied you parole + the court **GRANTS** your habeas petition . . .

- Your parole denial will be “vacated” (cancelled) and **you’ll get a new parole hearing**. You will not automatically be released from prison.<sup>62</sup>
- Your new parole hearing should happen between **3 and 6 months** after the court grants your habeas petition. The exact timing will depend on when the Board has an opening in its hearing calendar. Your habeas petition lawyer should make sure that the Board receives a copy of the court’s order.<sup>63</sup>
- **The Board can still deny you parole at your next hearing**. However, the Board CANNOT deny you parole based on the exact same reasons or evidence as last time. If the Board denies you parole, it has to point to some other reason or evidence that it didn’t consider last time. For example, the Board could deny you based on a new RVR or a change in your release plans since your last hearing if the change shows that you’re currently dangerous. The Board could also deny you parole based on evidence that existed during your last hearing, but that the Board didn’t consider.<sup>64</sup>

If the **BOARD** denied you parole + the court **DENIES** your habeas petition . . .

- **Your parole denial will stay valid and unchanged**, as if you hadn’t filed a habeas petition.

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<sup>62</sup> *In re Prather* (2010) 50 Cal.4th 238, 244, 257.

<sup>63</sup> Your lawyer can email a copy of the court’s order to the Board at [bphliferanalyst@cdcr.ca.gov](mailto:bphliferanalyst@cdcr.ca.gov), [BPH.Correspondenceunit@cdcr.ca.gov](mailto:BPH.Correspondenceunit@cdcr.ca.gov), and [BPHLegalUnitGroup@cdcr.ca.gov](mailto:BPHLegalUnitGroup@cdcr.ca.gov).

<sup>64</sup> *In re Prather* (2010) 50 Cal.4th 238, 258.



If the **GOVERNOR** reversed your parole grant + the court **GRANTS** your habeas petition . . .

- The Governor’s decision reversing your parole grant will be “vacated” (cancelled) and **your original parole grant will be “reinstated”** (put back in effect).
- **You won’t have another parole hearing.** The Board already found you suitable for parole, so you don’t need to have another parole hearing.
- **The Governor can’t reverse your parole grant again.** The court decided that there wasn’t any evidence to support the Governor’s reversal, so the Governor won’t get another chance to reverse your parole grant.<sup>65</sup> However, the Governor may refer your grant for *en banc* review by the Board.<sup>66</sup>
- **The Board will move forward with its standard protocol for release.**<sup>67</sup> The Board will review any new evidence in your record since your parole hearing. If the Board finds evidence that you’re unsuitable for parole (for example, a new RVR), it can hold a rescission hearing and take away your parole grant. If the Board doesn’t find anything, you’ll be released on parole.<sup>68</sup>

If the **GOVERNOR** reversed your parole grant + the court **DENIES** your habeas petition . . .

- **The Governor’s decision to reverse your parole grant will stay valid**, as if you never filed a habeas petition. You’ll typically have a new parole hearing within **18 months** of your last hearing.

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<sup>65</sup> *In re Twinn* (2010) 190 Cal.App.4th 447, 473; *In re McDonald* (2010) 189 Cal.App.4th 1008, 1025.

<sup>66</sup> *In re Copley* (2011) 196 Cal.App.4th 427, 436–37; Pen. Code, § 3041.1.

<sup>67</sup> *In re Lira* (2014) 58 Cal.4th 573, 582.

<sup>68</sup> Unfortunately, you can’t get time taken off of your parole period for the extra time you spent in prison as a result of the Governor’s illegal reversal. (*In re Lira* (2014) 58 Cal.4th 573, 577.)



## CHAPTER THREE: WRITING YOUR HABEAS PETITION

Chapter Two discussed how habeas petitions work. Now, it's time to write your own habeas petition. This chapter takes you through the process.

- **Section I** explains how to read your parole decision to understand why you were denied parole (or why your grant was reversed).
- **Sections II and III** explain how to write your Statement of Facts and Prayer for Relief.
- **Section IV** explains how to write legal arguments challenging your parole denial.<sup>69</sup>
- **Section V** discusses what supporting documents to submit as “exhibits” with your habeas petition.
- **Section VI** helps you fill out the mandatory Form HC-001 Petition for Writ of Habeas Corpus.<sup>70</sup>
- **Section VII** has templates you can use for different sections of your habeas petition.

In the end, your final habeas petition will include: (1) your Form HC-001, (2) the templates that you filled out (Statement of Facts, Prayer for Relief, and Arguments), and (3) your exhibits (supporting documents).

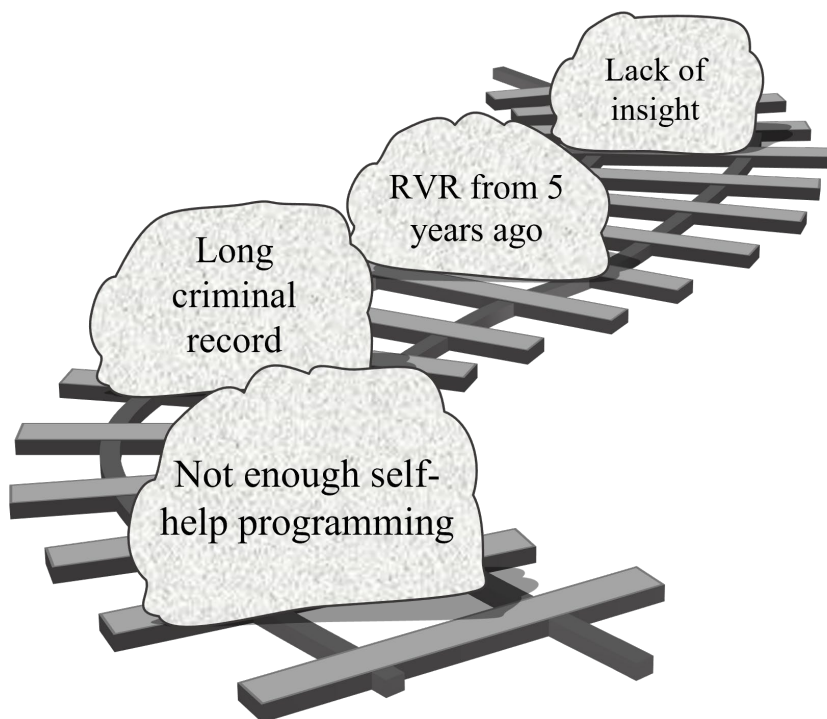
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<sup>69</sup> As mentioned earlier, this handbook often uses the phrase “parole denial” to collectively refer to denials by the Board and parole reversals by the Governor. We’ll point out any information that’s specific to Board denials versus Governor reversals.

<sup>70</sup> Generally, you must submit Form HC-001 if you’re filing a habeas petition without a lawyer. (California Rules of Court, rule 4.551.)

## Picturing your habeas petition

Here's one way to think about your habeas petition: Imagine you're riding a train. If you can make it to the next station, your parole denial will be overturned. But as you look up ahead, you notice a line of rocks blocking the train tracks.



You can think of each rock as representing a reason why you were denied parole. For example, if the Board said you don't have enough insight, that's one rock. If the Board said you haven't done enough programming, that's another rock. If you want to reach the train station, you must move all the rocks off the tracks. If you leave even one rock, you won't make it.

So, how does this relate to your habeas petition? If you want to win your habeas petition, you must prove that every reason why you were denied parole was illegal.<sup>71</sup> If the court thinks that even one reason was legal, the court can deny your petition. Thus, you must challenge every reason why you were denied parole.

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<sup>71</sup> This is called the "some evidence" rule. It applies if you're arguing that your parole denial was illegal because you aren't dangerous (the focus of this handbook). However, it may not apply to arguments about procedural errors in the parole hearing *process*. This handbook doesn't discuss procedural arguments.

## I. Understanding Why You Were Denied Parole

The first step of challenging your parole denial is knowing *why* you were denied parole. Understanding your parole denial is one of the most important steps of this process. If you want to win your habeas petition, you must prove that *every* reason why you were denied parole was illegal. The first step of that is understanding all of the reasons why you were denied parole.

### Getting your parole hearing transcript / reversal decision

Your counselor will likely give you your parole hearing transcript about 30 days after your hearing. Otherwise, you can request it from your counselor or the Board.<sup>72</sup> People outside of prison can request hearing transcripts for free by emailing the Board at [BPHSuitabilityHearingTrans@cdcr.ca.gov](mailto:BPHSuitabilityHearingTrans@cdcr.ca.gov).<sup>73</sup> Their email request should include your name, CDCR number, and the date of your hearing. The requestor doesn't have to explain who they are or why they're requesting the transcript.

Parole hearing transcripts generally look like this at the top:

PAROLE SUITABILITY HEARING	
STATE OF CALIFORNIA	
BOARD OF PAROLE HEARINGS	
In the matter of the Parole Consideration Hearing of:	CDCR Number: [CDCR #]
[NAME]	

---

<sup>72</sup> Pen. Code, § 3041.5, subd. (a)(4) (“The [parole candidate] . . . shall be permitted to request and receive a stenographic record of all proceedings”); Cal. Code Regs., tit. 15, § 2254.

<sup>73</sup> See Pen. Code, § 3042. People outside of prison can visit <https://www.cdcr.ca.gov/bph/psh-transcript/> for more detailed instructions about requesting hearing transcripts.

If the Governor reversed your parole grant, you should receive the written decision shortly afterwards.<sup>74</sup> Reversal decisions usually look like this at the top:

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW (Penal Code Section 3041.2)	
[Name], [CDCR #] First Degree Murder	
AFFIRM:	_____
MODIFY:	_____
REVERSE:	_____ <u>X</u> _____

Please be aware that hearing transcripts and Governor reversal decisions are currently only available in English.

### Reading your parole hearing transcript / reversal decision

Once you have your parole hearing transcript, read the entire thing at least once. The goal is to refresh your memory about what happened during your hearing. The transcript may remind you of moments you forgot or that you remember differently.<sup>75</sup>

Reading your transcript might bring up difficult emotions, so please give yourself time and space as you read. You can always put it down, step away, and come back to it later.

---

<sup>74</sup> The Governor must send you their reasons for reversing your parole grant. (Pen. Code, § 3041.2, subd. (b).) Additionally, the Governor must report all parole grant reversals to the Legislature (Cal. Const., art. V, § 8), but hasn't historically made them widely available to the public.

<sup>75</sup> As you read your transcript, there might be parts that you think are incorrect. Unfortunately, the court will probably take the transcript as an accurate reflection of what happened during your parole hearing. Therefore, you should write your habeas petition based on what your transcript actually says — not what you think it *should* say.

## Identifying the reasons why you were denied parole

You've read your entire parole hearing transcript at least once. Now, it's time to look for the specific reasons why you were denied parole.

If the Board denied you parole: Go back to the Decision section of your parole hearing transcript and reread it a couple more times. As you read the Decision section, your goal is to find all the reasons why you were denied parole.

*Finding the Decision section:* The Index page near the beginning of your transcript should tell you what page the Decision section starts on. For example, in the transcript shown below, the Decision section starts on page 53:

INDEX	
	<u>Page</u>
Proceedings .....	3
Case Factors .....	23
Pre-Commitment Factors .....	10
Post-Commitment Factors .....	30
Parole Plans .....	43
Closing Statements .....	47
Recess .....	52
Decision .....	53
Adjournment .....	63
Transcript Certification .....	64

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The Decision section of your parole hearing transcript will probably look something like this:

1	CALIFORNIA BOARD OF PAROLE HEARINGS
2	DECISION
3	DEPUTY COMMISSIONER [REDACTED]: We are back on the
4	record.

If the Governor reversed your parole grant: Read the *entire* decision review document written by the Governor. Then, find the section titled DECISION and reread that section a couple more times. The beginning of the Decision section should look something like this:

<p style="text-align: center;"><b><u>DECISION</u></b></p> <p>After an independent and thorough review, the evidence establishes that [REDACTED] [REDACTED] is not suitable for parole and cannot be safely released from prison at this time. [REDACTED] currently poses an unreasonable risk of danger to public safety.</p>
---

As you read the Board's/Governor's decision, your goal is to find all the reasons why you were denied parole. The Board/Governor often use certain words or phrases to explain why they're denying parole. Keep an eye out for words or phrases like these:

- “aggravating”
- “increases your risk of dangerousness”
- “makes you a threat to public safety”
- “nexus to dangerousness”

If you see one of these phrases in the decision, the Board/Governor was probably explaining why you were denied parole. For example:

<b>If the Board / Governor said something like . . .</b>	<b>Then you were probably denied parole because of your . . .</b>
“Your criminal history is aggravating.”	Criminal history / record
“You’ve had serious misconduct while incarcerated, so that’s aggravating.”	Prison disciplinary record
“He lacks self-awareness of the causative factors that led him to commit the crime.”	Insight / Understanding
“Your mental health increases your dangerousness.”	Mental health
“Your substance use makes you a threat to public safety.”	Substance use
“She doesn’t have appropriate coping skills, which makes her a risk to public safety.”	Coping skills
“You don’t have realistic release plans, which creates a nexus to current dangerousness.”	Release plans



The Board/Governor won't always use the phrases listed above. You should also pay attention to any other negative things they said in their decision. Those might also be reasons why they denied you parole. For example:

<b>If the Board / Governor said . . .</b>	<b>Then you might've been denied parole because of your . . .</b>
"He continues to shift blame and minimize his role in the crime."	Accountability
"You show no remorse for the harm you've caused others."	Remorse
"You had an unstable social history before incarceration."	Unstable social history
"His actions in the crime were reckless and deplorable, demonstrating a total disregard for the life of the victim."	Life crime
"You're still lacking relevant programming."	Prison programming
"We find that your version of the crime continues to lack credibility."	Life crime account
"You testified that you did not commit this crime, and the Panel finds your statements demonstrate a lack of sincerity and a lack of credibility."	Innocence claim
"Something of great concern is that you had no relapse prevention plan."	Relapse prevention plan

As you read the decision, write down all the reasons why you were denied parole. For each reason, write the page number(s) where you found it. For example:

<b>I was denied parole because of my . . .</b>	<b>The Board / Governor talked about it on page(s) . . .</b>
Criminal history	76
Insight	78-79
Substance use	79 and 81
Prison disciplinary record	82

You can write down all your denial reasons in the table below. If you need more space, use another sheet of paper. You won't submit these notes with your habeas petition. However, having the denial reasons and page numbers in one place will help when you write your arguments. You'll be able to say why you were denied parole and where the court can find those reasons in the decision.

<b>I was denied parole because of my . . .</b>	<b>The Board / Governor talked about it on page(s) . . .</b>

## II. Writing Your Statement of Facts

You’ve figured out all the reasons why you were denied parole. Now, you’re ready to start writing your habeas petition. The first section we’ll write is the **Statement of Facts**. The Statement of Facts gives the court basic information about your parole denial. This is *not* where you argue that your denial was illegal — you’ll do that later in your arguments. Your Statement of Facts should include:

- ☐ The **date** of your parole hearing
- ☐ If the Board denied you parole: Your **denial length** (how many years the Board denied you parole for)
- ☐ If the Governor reversed your parole grant: The **date** the Governor reversed your parole grant
- ☐ The **reasons** why the Board or Governor denied you parole (do not argue why these reasons were wrong)
- ☐ Your **conduct** in prison (programs, work/education, discipline, etc.)

We’ve included a template Statement of Facts at the end of this chapter:

- If the Board denied you parole, use the Statement of Facts template with the ▲ symbol in the bottom left corner
- If the Governor reversed your grant, use the template with the ♦ symbol in the bottom left corner

The Statement of Facts template has spaces for you to fill in and boxes for you to check based on the facts of your case, as shown in the example below:<sup>76</sup>

<b><u>Time in Prison</u></b> Petitioner has been in prison since <u>1998</u> (Year).	
<b><u>Positive Conduct in Prison</u></b> While in prison, Petitioner has participated in ( <i>check all that apply</i> ):	
<input checked="" type="checkbox"/> Prison Programming	<input checked="" type="checkbox"/> Employment / Vocational / Job Training
<input checked="" type="checkbox"/> Education	<input type="checkbox"/> Volunteer Work

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<sup>76</sup> You may notice that the templates call you “Petitioner.” That’s because “Petitioner” is the legal term for the person who’s filing the habeas petition (you).

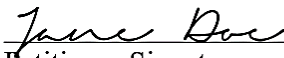
### III. Writing Your Prayer for Relief

The **Prayer for Relief** is where you say what you want the court to do. For example, if the Board denied you parole, you can ask the court to “vacate” (cancel/overturn) your denial and give you a new parole hearing. If the Governor reversed your parole grant, you can ask the court to vacate the Governor’s decision and “reinstate” (put back) your parole grant. Your Prayer for Relief should also ask the court to appoint you a lawyer and “grant all other relief necessary to promote the ends of justice.” This asks the court to order any other relief that justice requires; it also allows you to request more specific relief later on.

We’ve included a template Prayer for Relief at the end of this chapter.

- If the Board denied you parole, use the Prayer for Relief template with the ● symbol in the bottom left corner
- If the Governor reversed your grant, use the template with the \* symbol in the bottom left corner

The template Prayer for Relief has spaces for you to write the date and sign your name, as shown in the example below:

5. Grant all other relief necessary to promote the ends of justice.	
Dated: <u>February 18, 2025</u>	
Respectfully submitted,	
 _____ Petitioner Signature	
<u>Jane Doe</u> _____ Petitioner Name	

## IV. Writing Your Arguments

In your Statement of Facts, you told the court why you were denied parole. Now, it's time to explain why your parole denial was *illegal*. You're going to do this by writing **arguments** about why each parole denial reason was illegal.

### What makes a parole denial reason illegal?

It's illegal to deny you parole for something that's unrelated to you being currently dangerous.<sup>77</sup> For example, it'd be *illegal* to deny you parole for liking apples. That's because liking apples has nothing to do with being dangerous. On the other hand, it'd probably be *legal* to deny someone parole if they punched someone yesterday. If they punched someone yesterday, then they're probably still dangerous today.

If the denial reason is **NOT** related to you being dangerous today, then that denial reason is **ILLEGAL**.

You must convince the court that *all* of the reasons why you were denied parole were illegal. Put another way, you must argue that *none* of the reasons why you were denied parole were related to you being dangerous. You do this by writing arguments about each reason. Each argument will generally say, "This denial reason was illegal because it isn't related to me being dangerous today."

### Template arguments

We've included template arguments at the end of this chapter. You don't have to use the templates, but they may help you write your own arguments. You can copy parts of the templates that are appropriate for your case. If something in the template doesn't apply to your case, don't include it. Please also note that some of the laws mentioned in the templates may have changed.

The table on the next page can help you choose which template arguments to look at based on the specific reasons why you were denied parole.

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<sup>77</sup> See *In re Lawrence* (2008) 44 Cal.4th 1181, 1221 (parole can only be denied if the person "*continues* to pose an unreasonable risk to public safety"). **Attachment B: Relevant Laws** lists examples of denial reasons that courts have said are legal vs. illegal.

<b>If you were denied parole due to . . .</b>	<b>Look at the template with this title: <sup>78</sup></b>
Your criminal history / record	<u>Petitioner’s static criminal history is not evidence of current dangerousness</u>
The nature of the life crime	<u>The life crime is not evidence of current dangerousness in light of Petitioner’s post-conviction record</u>
Your past substance use	<u>Petitioner’s past substance use is not evidence of current dangerousness</u>
Other things from your past that you can’t change (for example, your social history)	<u>The static factors in Petitioner’s case are not evidence of current dangerousness</u>
Your disciplinary record in prison	<u>Petitioner’s disciplinary record is not evidence of current dangerousness</u>
Your self-help programming	<u>Petitioner has taken sufficient self-help programming in prison</u>
Your insight or remorse	<u>Petitioner has sufficient insight and remorse</u>
How recently you accepted responsibility or showed remorse	<u>The Board cannot deny parole based on the timing or duration of Petitioner’s accountability or remorse</u>
The Board not believing that you’re innocent of the life crime	<u>The Board unlawfully denied parole based on Petitioner’s innocence claim</u>
The Board not believing your version of the life crime	<u>Petitioner’s account of the life crime is not evidence of current dangerousness</u>
The Board not considering your youth parole eligibility	<u>The Board failed to give “great weight” to Petitioner’s youth parole factors</u>
The Board not considering your elderly parole eligibility	<u>The Board failed to give “special consideration” to Petitioner’s elderly parole factors</u>

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<sup>78</sup> You’ll notice that the templates call you “Petitioner.” That’s because “Petitioner” is the legal term for the person who’s filing the habeas petition (you).

**Innocence claim vs. Different account of the crime**

- If you're completely innocent of the life crime, then you have an innocence claim. If the Board didn't believe your innocence claim, then you should use the template argument titled "The Board unlawfully denied parole based on Petitioner's innocence claim."
- Some people aren't completely innocent of the life crime, but their version of what happened is different from what they were convicted of (or is different from what's written in the Probation Officer's Report or Court of Appeal opinion). For example, imagine John was convicted of intentionally murdering someone. John admits to shooting the victim, but claims it was an accident. John isn't completely innocent of the crime, but his account of what happened is different from the official record of the crime. If the Board didn't believe John's version of what happened, then John would use the template argument titled "Petitioner's account of the life crime is not evidence of current dangerousness."

**WARNING:** If you have an **innocence claim**, we strongly encourage you **NOT to discuss the life crime in your habeas petition** without speaking to a lawyer. Discussing the crime in your habeas petition may hurt your innocence claim in court and at future parole hearings.

## Writing arguments without a template

Our template arguments address some common reasons why people are denied parole. However, they do not cover *all* of the reasons why you might've been denied parole. You should write your own arguments if the Board or Governor denied you parole for other reasons. Remember, you must argue against *every* reason why you were denied parole. In general, each argument should:

- State the **reason** why the Board/Governor denied you parole, with the **page number(s)** where the Board/Governor gave that reason.

*Example:* “The Board denied parole because of Petitioner’s release plans, as seen on page 76 of the hearing transcript.”

- Explain **why** that reason was illegal and was **not related to you being currently dangerous**. You should **cite** (refer to) parts of your parole hearing record or prison file that support your point.

*Example:* “It was illegal to deny parole based on Petitioner’s release plans. The psychologist said Petitioner’s plans are realistic on page 10 of the Comprehensive Risk Assessment. Petitioner also has letters from three housing programs and a job, as discussed on page 35 of the hearing transcript. Because Petitioner’s release plans are concrete and realistic, they do not show that Petitioner is currently dangerous.”

- Cite any laws or cases that support your argument.<sup>79</sup>

*Example:* “The Board can consider a parole candidate’s release plans. (Cal. Code Regs., tit. 15, § 2402, subd. (d)(8)). However, “To qualify as ‘realistic’ a plan need not be ironclad.” (*In re Powell* (2010) 188 Cal.App.4th 1530, 1543.)”

You should NOT make any personal attacks on the Board, District Attorney, or victims/survivors in your arguments. You should focus on explaining why you were denied parole and why those reasons were illegal.

Once you’re done writing your arguments, ask one or two people you trust to review them for you. Do your arguments make sense to them? What questions

---

<sup>79</sup> **Attachment B: Relevant Laws** has a list of cases that might be helpful.



do they have after reading your arguments? Is there anything that could make your arguments clearer? It can be very helpful to get someone else's perspective because they often see things that we may miss as we're writing.

**A note about using AI:** Some people outside of prison use artificial intelligence (AI) tools like ChatGPT to help them write things. However, these tools are known to cite fake court cases and incorrect laws. Therefore, you shouldn't rely on them to write your arguments.

## V. Gathering Your Exhibits (Supporting Documents)

You’ve written your arguments. Now, it’s time to gather documents that help prove your arguments. These are called “**exhibits.**” You’ll mail your exhibits with your habeas petition to the court. You should send *copies* of any documents you use as exhibits (keeping the originals) because the court might not return them.

### What to include as exhibits

You should include copies of these documents as exhibits:

- ☐ Your parole hearing transcript;
- ☐ Your Comprehensive Risk Assessment from your parole hearing;
- ☐ The Governor’s reversal decision (if your grant was reversed);
- ☐ Any other documents that you cited in your arguments. Generally, these should be documents that already existed when you had your parole hearing. Your habeas petition is about your parole denial or reversal, so things that happened afterwards usually aren’t relevant.

You can include more exhibits, but you don’t have to. Some exhibits can hurt your case, so be careful about what you include if you haven’t talked to a lawyer. You should only include exhibits that directly support your arguments. Here are some examples of exhibits that might support specific arguments:

Argument	Exhibits that might support this argument
Petitioner has addressed their past substance use issues	Certificates from AA, NA, or other substance use programs
Petitioner has addressed their past criminal thinking	Certificates from programs about criminal thinking
Petitioner has taken sufficient self-help programs	Program certificates; Support letters from program volunteers and/or facilitators
Petitioner is rule-abiding	Positive work reports and laudatory chronos
Petitioner has realistic release plans	Release plans; Offer letters from transitional housing programs and jobs
Petitioner has insight and remorse	Insight statements; Remorse letters

## Organizing your exhibits

Once you’ve chosen which exhibits to submit, it’s time to organize them for the court. First, assign each exhibit a letter or number (“Exhibit A,” “Exhibit B,” etc.). Next, make a list that tells the court what each exhibit is. For example:

*Exhibit A. Parole Suitability Hearing Transcript, dated January 2, 2025*

*Exhibit B. Comprehensive Risk Assessment, dated September 1, 2024*

*Exhibit C. Governor Reversal Decision, dated May 17, 2025*

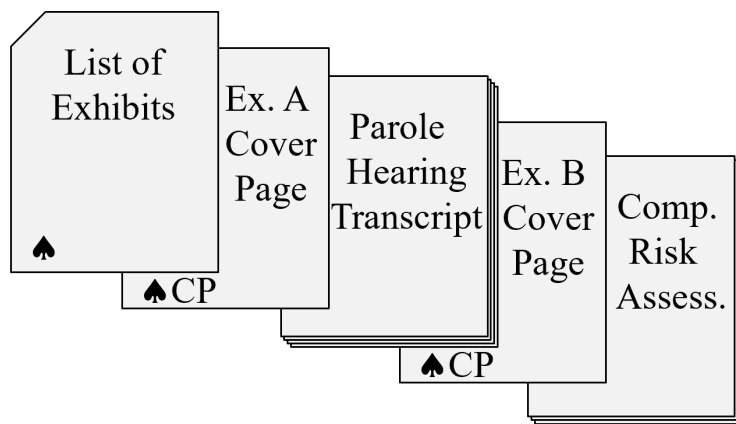
If you choose to submit documents that you used in your parole hearing, you can put them all in one exhibit. For example, you could put an AA certificate, NA certificate, and a job offer letter into one exhibit called:

*Exhibit D. Parole Suitability Hearing Documents*

We’ve included a template **List of Exhibits** at the end of this chapter (♠ symbol in the bottom left corner). You can fill in the blank spaces based on your own exhibits. If you have more than five exhibits, you should add more lines.

We’ve also included template **cover pages** at the end of this chapter (♠CP symbol in the bottom left corner). Each exhibit should have its own cover page. On each cover page, write the name of the exhibit and number of pages in the exhibit.

When you’re done with the steps above, it’s time to put all your exhibit documents in order. Your List of Exhibits goes on top, followed by your first cover page and exhibit, then your second cover page and exhibit, and so on. For example:



## VI. Filling Out Form HC-001 — Petition for Writ of Habeas Corpus

The final step of writing your habeas petition is filling out *Form HC-001 – Petition for Writ of Habeas Corpus*. The HC-001 is the official form you must use to file a habeas petition in California state court. This section gives you tips for filling out the form. We’ve included a blank copy of the form for you to fill out yourself. Your law library should also have copies of the form. Please note:

- These tips were written to help you fill out Form HC-001 if you’re challenging a **parole denial or reversal**. The HC-001 is also used for other kinds of legal challenges, such as challenging convictions, sentences, or prison disciplinary actions. However, these tips will not help you challenge those other issues.<sup>80</sup>
- These tips are for filing a habeas petition in **superior court** (county-level court), which is generally where you file a habeas petition for the first time.<sup>81</sup>
- These tips are based on the September 1, 2024 version of the HC-001 form. (The version date is written in the bottom left corner of the form.) These tips **may be outdated** if the form has been updated since then.
- If the Governor reversed your parole grant, your answers on the HC-001 form should refer to your **parole reversal**, not your parole denial.
- If there’s a question on the HC-001 form that you don’t know the answer to, you can write “**I don’t know.**”
- Following these tips **does not guarantee** that your habeas petition will be legally or factually correct or sufficient. Some of the tips in this section **may not be appropriate** for your specific situation. These tips are not a substitute for consulting a lawyer.

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<sup>80</sup> For general guidance about filing habeas petitions, see the Prison Law Office’s guide titled *State Court Petitions for Writ of Habeas Corpus*.

<sup>81</sup> **Chapter Five: Filing in the Court of Appeal** explains how to fill out the Form HC-001 for the court of appeal after a superior court denial.

Name: [Your name], Petitioner in Pro Per

Address: [Name and address of the  
prison you're in]

CDCR or ID Number: [Your CDCR number]

Key

*Italics* = Words you can copy  
word-for-word, as  
appropriate for your case

[Brackets] = Answers that are specific  
to your case

HC-001

Superior Court of California  
County of [County you were convicted in]

(Court)

<u>[Your name]</u>	
Petitioner	v.
<u>Board of Parole Hearings and</u> <u>[Warden of the prison you're in]</u>	
Respondent	

PETITION FOR WRIT OF HABEAS CORPUS

No. \_\_\_\_\_  
(To be supplied by the Clerk of the Court)

**Note:** If you're challenging the Governor's  
decision to reverse your parole grant, then  
**Respondent** will be the Governor of California  
(not the Board of Parole Hearings) and the  
Warden of the prison you're in.

**READ CAREFULLY**

original conviction or sentence and are filing this  
petition with the court that made the order.

and are filing this petition in the superior court,  
the court of appeal, or the California Supreme Court.

- Read the entire form *before* answering any questions.
- This petition must be clearly handwritten in ink or typed. You should exercise care to make sure all answers are true and correct. Because the petition includes a verification, the making of a statement that you know is false may result in a conviction for perjury.
- Answer all applicable questions in the proper spaces. If you need additional space, add an extra page and indicate that your answer is "continued on additional page."
- If you are filing this petition in the superior court, you only need to file the original unless local rules require additional copies. Many courts require more copies.
- If you are filing this petition in the Court of Appeal, file the original of the petition and one set of any supporting documents.
- If you are filing this petition in the California Supreme Court, file the original and 10 copies of the petition and, if separately bound, an original and 2 copies of any supporting documents.
- Notify the Clerk of the Court in writing if you change your address after filing your petition.

Approved by the Judicial Council of California for use under rules 4.551 (as amended January 1, 2024) and 8.380 (as amended January 1, 2020) of the California Rules of Court. Subsequent amendments to rule 8.380 may change the number of copies to be furnished to the Supreme Court and Court of Appeal.

This petition concerns:

- ☐ A conviction ☒ Parole ☐ A violation of the Racial Justice Act under Penal Code section 745(a)
- ☐ A sentence ☐ Credits
- ☐ Jail or prison conditions ☐ Prison discipline
- ☐ Other (specify): \_\_\_\_\_

1. Your name: [Your name]
2. a. Where are you incarcerated? [Name of the prison you're in]
  - b. If you are not incarcerated, are you on supervised release, such as probation, parole, mandatory supervision, or postrelease community supervision?
 

☐ Yes (specify): \_\_\_\_\_

☐ No
3. Why are you in custody or on supervised release? ☒ Criminal conviction ☐ Civil commitment
 

Answer items a through i to the best of your ability.

  - a. State reason for civil commitment or, if criminal conviction, state nature of offense and enhancements (for example, "robbery with use of a deadly weapon").
 

[Crimes / enhancements that led to your prison sentence (for example, first-degree murder and use of a firearm)]
  - b. Penal or other code sections: [Laws you were convicted and sentenced under, such as PC 187 & 12022.5]
  - c. Name and location of sentencing or committing court:
 

[Name and address of the court where you were convicted and sentenced]
  - d. Case number: [Number assigned to your original criminal case]
  - e. Date convicted or committed: [Date you were convicted]
  - f. Date sentenced/Date of judgment: [Date you were sentenced to prison]
  - g. Length of sentence: [Current prison sentence (for example, 25-to-life)]
  - h. When do you expect to be released? [Your expected release date. You can write "I don't know."]
  - i. Were you represented by counsel in the trial court? ☐ Yes ☐ No If yes, state the attorney's name and address:
 

[Mark whether you had a lawyer when you were originally convicted. If you did, write your lawyer's name and address]
4. What was the LAST plea you entered? (Check one): [Mark how you pleaded before you were convicted]

☐ Not guilty ☐ Guilty ☐ Nolo contendere ☐ Other: \_\_\_\_\_
5. If you pleaded not guilty, what kind of trial did you have? [If you were convicted after a trial, mark what kind of trial you had (jury or bench). If you didn't have a trial (for example, if you pleaded guilty), you can leave this blank]

☐ Jury ☐ Judge without a jury ☐ Submitted on transcript ☐ Awaiting trial



The suggested answers below refer to the **Statement of Facts, Exhibits, and Argument** templates from **Chapter Three: Writing Your Habeas Petition**.  
If you aren't using these templates, you should adjust your answers as needed.

6. CLAIMS FOR RELIEF

**Claim 1:** State briefly your claim for relief. For example, "The trial court imposed an illegal enhancement," or "an expert witness violated the Racial Justice Act." (If you have additional claims for relief, use a separate page for each claim. State claim 2 on page 4. For additional claims, make copies of page 4 and number the additional claims in order.)

Petitioner's parole denial was illegal because there is no evidence that Petitioner is currently dangerous. (In re Rosenkrantz (2002) 29 Cal.4th 616, 676–77 ["Due process of law requires that [parole] decision[s] be supported by some evidence in the record"].)

a. Supporting facts:

Tell your story briefly without citing cases or law. If you are challenging the legality of your conviction, describe the facts on which your conviction is based. *If necessary, attach additional pages.* CAUTION: You must state facts, not conclusions. For example, if you are claiming incompetence of counsel, you must state facts specifically setting forth what your attorney did or failed to do and how that affected your trial. Failure to allege sufficient facts will result in the denial of your petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.) A rule of thumb to follow is, *who* did exactly *what* to violate your rights at what time (*when*) or place (*where*).

**\*If the Board denied you parole\***

Petitioner had a parole hearing on [Date of hearing]. Petitioner was denied parole for [3, 5, 7, 10, or 15] years. Continued on attached page labeled "Statement of Facts."

**\*If the Governor reversed your parole grant\***

Petitioner had a parole hearing on [Date of hearing]. The Governor reversed Petitioner's parole grant on [Date of reversal]. Continued on attached page labeled "Statement of Facts."

b. Supporting documents:

Attach declarations, relevant records, transcripts, or other documents supporting your claim. (See *People v. Duvall* (1995) 9 Cal.4th 464, 474.)

See attached page labeled "List of Exhibits" and accompanying exhibits.

c. Supporting cases, rules, or other authority (optional):

(Briefly discuss, or list by name and citation, the cases or other authorities that you think are relevant to your claim. If necessary, attach an extra page.)

Cal. Const., art. I, section 7; Penal Code section 3041; California Code of Regulations, title 15, section 2402. Continued on attached pages labeled "Argument."

[illegible]

## This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

[illegible][illegible]



For questions 7 and 8, mark whether you appealed your conviction or sentence in the Court of Appeal or California Supreme Court. If you did, then you should answer the follow-up questions.

HC-001

7. Did you appeal from the conviction, sentence, or commitment? ☐ Yes ☐ No If yes, give the following information:
- a. Name of court ("Court of Appeal" or "Appellate Division of Superior Court"): \_\_\_\_\_
- b. Result: \_\_\_\_\_ c. Date of decision: \_\_\_\_\_
- d. Case number or citation of opinion, if known: \_\_\_\_\_
- e. All issues raised: (1) \_\_\_\_\_  
(2) \_\_\_\_\_  
(3) \_\_\_\_\_
- f. Were you represented by counsel on appeal? ☐ Yes ☐ No If yes, state the attorney's name and address, if known: \_\_\_\_\_  
\_\_\_\_\_
8. Did you seek review in the California Supreme Court? ☐ Yes ☐ No If yes, give the following information:
- a. Result: \_\_\_\_\_ b. Date of decision: \_\_\_\_\_
- c. Case number or citation of opinion, if known: \_\_\_\_\_
- d. All issues raised: (1) \_\_\_\_\_  
(2) \_\_\_\_\_  
(3) \_\_\_\_\_
9. If your petition makes a claim regarding your conviction, sentence, or commitment that you or your attorney did not make on appeal, explain why the claim was not made on appeal (see *In re Dixon* (1953) 41 Cal.2d 756, 759):  
Not applicable. This petition is about my parole denial.  
\_\_\_\_\_  
\_\_\_\_\_
10. Administrative review:
- a. If your petition concerns conditions of confinement or other claims for which there are administrative remedies, failure to exhaust administrative remedies may result in the denial of your petition, even if it is otherwise meritorious. (See *In re Dexter* (1979) 25 Cal.3d 921, 925.) Explain what administrative review you sought or explain why you did not seek such review:  
There are no administrative remedies to exhaust before filing a habeas petition challenging a parole denial.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- b. Did you seek the highest level of administrative review available? ☒ Yes ☐ No  
Attach documents that show you have exhausted your administrative remedies. (See *People v. Duvall* (1995) 9 Cal.4th 464, 474.) **[You don't need to attach any documents for this question.]**
11. Other than direct appeal, have you filed any other petitions, applications, or motions with respect to this conviction, sentence, commitment, or issue in any court, including this court? (See *In re Clark* (1993) 5 Cal.4th 750, 767–769 and *In re Miller* (1941) 17 Cal.2d 734, 735.)  
☐ Yes If yes, continue with number 12. ☐ No If no, skip to number 14.

[Mark ☒ Yes if you've already challenged this parole denial in court (for example, if you filed a habeas petition about this denial in a different superior court)]

You only need to answer **questions 12 and 13** if you've already filed something in court challenging this parole denial. If you've never challenged this denial in any court, then you can skip to question 14.

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12. a. (1) Nature of proceeding (for example, "habeas corpus petition"): \_\_\_\_\_  
(2) Name of court: \_\_\_\_\_  
(3) Result (*attach order or explain why unavailable*): \_\_\_\_\_  
(4) Date of decision: \_\_\_\_\_  
(5) Case number or citation of opinion, if known: \_\_\_\_\_  
(6) All issues raised: (a) \_\_\_\_\_  
(b) \_\_\_\_\_  
(c) \_\_\_\_\_
- b. (1) Nature of proceeding: \_\_\_\_\_  
(2) Name of court: \_\_\_\_\_  
(3) Result (*attach order or explain why unavailable*): \_\_\_\_\_  
(4) Date of decision: \_\_\_\_\_  
(5) Case number or citation of opinion, if known: \_\_\_\_\_  
(6) All issues raised: (a) \_\_\_\_\_  
(b) \_\_\_\_\_  
(c) \_\_\_\_\_

13. If any of the courts listed in number 12 held a hearing, state name of court, date of hearing, nature of hearing, and result:

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14. Explain any delay in discovering or presenting the claims for relief and in raising the claims in this petition. (See *In re Robbins* (1998) 18 Cal.4th 770, 780; Pen. Code, § 1473(e).)

**[If it's been more than 11 months since you were denied parole, explain why you weren't able to file this habeas petition earlier]**

---

15. Are you presently represented by counsel? ☐ Yes ☒ No If yes, state the attorney's name and address, if known:

**[If you can't afford a lawyer, you can write that you want a lawyer to be appointed for you]**

---

16. Do you have any petition, appeal, or other matter pending in any court? ☐ Yes ☐ No If yes, explain:

**[Mark whether you have **any other** actions or requests currently going on in **any court** (for example, if you're waiting for a court to rule on a resentencing petition). If you do have something that's in front of a judge right now, explain what it is.]**

---

17. If this petition might lawfully have been made to a lower court, state the circumstances justifying an application to this court:

**[If you're planning to file this habeas petition in the **superior court** (county-level court), you can leave this blank or write "Not applicable"]**

---

**Questions 18a. through g. are for habeas petitions brought under the Racial Justice Act.**  
**You don't need to answer these questions if you're only challenging your parole denial.**

HC-001

18. Answer the following questions if you are raising a claim of violation of the Racial Justice Act under Penal Code section 745(a):

a. Indicate which of the following apply to the case in which you are making a claim for violation of Penal Code section 745(a) *(check all that apply)*:

- (1) ☐ Judgment is not final (for example, because an appeal is pending),
- (2) ☐ You are currently serving a sentence in the state prison or county jail under Penal Code 1170(h) for the felony conviction in which you are raising a Racial Justice Act claim,
- (3) ☐ This petition is filed **on or after** January 1, 2025, and judgment became final for a felony conviction on or after January 1, 2015, or
- (4) ☐ This petition is filed **on or after** January 1, 2026, and judgment is for a felony conviction.

b. I request relief based on the following *(choose all that apply)*:

- (1) ☐ The judge, an attorney, a law enforcement officer, an expert, or a juror in the case exhibited bias or animus toward me because of my race, ethnicity, or national origin.
- (2) ☐ During in-court trial proceedings, the judge, an attorney, a law enforcement officer, an expert, or a juror used racially discriminatory language about my race, ethnicity, or national origin. (Racially discriminatory language does not include relaying language used by someone else that is relevant to the case, or giving a racially neutral and unbiased physical description of the suspect.)
- (3) ☐ I was charged with or convicted of a more serious offense than defendants of other races, ethnicities, or national origins who have engaged in similar conduct and are similarly situated, **and** the prosecution more frequently sought or obtained convictions for more serious offenses against people who share my race, ethnicity, or national origin in the county where the convictions were sought or obtained.
- (4) ☐ I received a longer or more severe sentence compared to similarly situated individuals convicted of the same offense **and**:
- (a) ☐ longer or more severe sentences were more frequently imposed for the same offense on defendants who share my race, ethnicity, or national origin than on others in that county; **and/or**
- (b) ☐ longer or more severe sentences were more frequently imposed for the same offense on defendants in cases with victims of one race, ethnicity, or national origin than in cases with victims of other races, ethnicities, or national origins in that county.

c. Is your claim based on a statement or conduct by a judge? ☐ Yes ☐ No

If yes, please state the judge's name:

d. Do you want appointed counsel? ☐ Yes ☐ No

If yes, can you afford to hire counsel? ☐ Yes ☐ No

e. Do you request permission to amend a pending petition for writ of habeas corpus with this claim? ☐ Yes ☐ No

(1) If yes, in what court is your petition pending? \_\_\_\_\_

(2) If yes, what is the case number of your pending petition? \_\_\_\_\_

f. Do you request disclosure of evidence relevant to a potential violation of Penal Code section 745(a)? ☐ Yes ☐ No

(1) ☐ The type of records or information sought is described as follows:

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(2) ☐ The reason the records or information are needed is as follows:

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g. Are you raising this claim for the first time? ☐ Yes ☐ No

If no, are you raising it again because of new evidence that could not have been previously known to you?

(1) ☐ Yes (*explain*):

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(2) ☐ No (*explain*):

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If you need additional space to answer any question on this petition, add an extra page and indicate that your answer is "continued on additional page."

I, the undersigned, say: I am the petitioner in this action. I declare under penalty of perjury under the laws of the State of California that the foregoing allegations and statements are true and correct, except as to matters that are stated on my information and belief, and as to those matters, I believe them to be true.

Date: [Today's date]



[Your signature]

(SIGNATURE OF PETITIONER)

### **Some final tips**

- We've included an extra **cover page** (Page 1) of the HC-001 form for you to fill out. We've also included a template **Letter to the Clerk of Court** (≡ symbol in bottom left corner) for you to fill out and mail to the court with your habeas petition. The letter asks the clerk to stamp your case number and filing date on the extra cover page and return it to you. That way, you'll have proof that your habeas petition was received and filed.
- You should include a **stamped envelope** that's **addressed to yourself** when you mail your habeas petition to the court. The clerk will use that envelope to return your stamped cover page to you.

**BLANK FORM HC-001**

**(With extra cover page)**

**[This page is intentionally left blank]**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

CDCR or ID Number: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(Court)

**PETITION FOR WRIT OF HABEAS CORPUS**

Petitioner

v.

Respondent

No. \_\_\_\_\_

(To be supplied by the Clerk of the Court)

**INSTRUCTIONS—READ CAREFULLY**

- If you are challenging an order of commitment or a criminal conviction or sentence and are filing this petition in the superior court, you should file it in the county that made the order.
- If you are challenging the conditions of your confinement and are filing this petition in the superior court, you should file it in the county in which you are confined.

- Read the entire form *before* answering any questions.
- This petition must be clearly handwritten in ink or typed. You should exercise care to make sure all answers are true and correct. Because the petition includes a verification, the making of a statement that you know is false may result in a conviction for perjury.
- Answer all applicable questions in the proper spaces. If you need additional space, add an extra page and indicate that your answer is "continued on additional page."
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- If you are filing this petition in the California Supreme Court, file the original and 10 copies of the petition and, if separately bound, an original and 2 copies of any supporting documents.
- Notify the Clerk of the Court in writing if you change your address after filing your petition.

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**[This page is intentionally left blank]**



Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

CDCR or ID Number: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(Court)

**PETITION FOR WRIT OF HABEAS CORPUS**

Petitioner

v.

Respondent

No. \_\_\_\_\_

(To be supplied by the Clerk of the Court)

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- Read the entire form *before* answering any questions.
- This petition must be clearly handwritten in ink or typed. You should exercise care to make sure all answers are true and correct. Because the petition includes a verification, the making of a statement that you know is false may result in a conviction for perjury.
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**This petition concerns:**

- ☐ A conviction ☐ Parole ☐ A violation of the Racial Justice Act under Penal Code section 745(a)
- ☐ A sentence ☐ Credits
- ☐ Jail or prison conditions ☐ Prison discipline
- ☐ Other (specify): \_\_\_\_\_

1. Your name: \_\_\_\_\_

2. a. Where are you incarcerated? \_\_\_\_\_

b. If you are not incarcerated, are you on supervised release, such as probation, parole, mandatory supervision, or postrelease community supervision?

☐ Yes (specify): \_\_\_\_\_

☐ No

3. Why are you in custody or on supervised release? ☐ Criminal conviction ☐ Civil commitment

*Answer items a through i to the best of your ability.*

a. State reason for civil commitment or, if criminal conviction, state nature of offense and enhancements (for example, "robbery with use of a deadly weapon").

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

b. Penal or other code sections: \_\_\_\_\_

c. Name and location of sentencing or committing court:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

d. Case number: \_\_\_\_\_

e. Date convicted or committed: \_\_\_\_\_

f. Date sentenced/Date of judgment: \_\_\_\_\_

g. Length of sentence: \_\_\_\_\_

h. When do you expect to be released? \_\_\_\_\_

i. Were you represented by counsel in the trial court? ☐ Yes ☐ No *If yes, state the attorney's name and address:*

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

4. What was the LAST plea you entered? (Check one):

☐ Not guilty ☐ Guilty ☐ Nolo contendere ☐ Other: \_\_\_\_\_

5. If you pleaded not guilty, what kind of trial did you have?

☐ Jury ☐ Judge without a jury ☐ Submitted on transcript ☐ Awaiting trial

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[illegible]

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a. Supporting facts:

b. Supporting documents:

c. Supporting cases, rules, or other authority:

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7. Did you appeal from the conviction, sentence, or commitment? ☐ Yes ☐ No If yes, give the following information:
- a. Name of court ("Court of Appeal" or "Appellate Division of Superior Court"): \_\_\_\_\_
- b. Result: \_\_\_\_\_ c. Date of decision: \_\_\_\_\_
- d. Case number or citation of opinion, if known: \_\_\_\_\_
- e. All issues raised: (1) \_\_\_\_\_  
(2) \_\_\_\_\_  
(3) \_\_\_\_\_
- f. Were you represented by counsel on appeal? ☐ Yes ☐ No If yes, state the attorney's name and address, if known:  
\_\_\_\_\_  
\_\_\_\_\_
8. Did you seek review in the California Supreme Court? ☐ Yes ☐ No If yes, give the following information:
- a. Result: \_\_\_\_\_ b. Date of decision: \_\_\_\_\_
- c. Case number or citation of opinion, if known: \_\_\_\_\_
- d. All issues raised: (1) \_\_\_\_\_  
(2) \_\_\_\_\_  
(3) \_\_\_\_\_
9. If your petition makes a claim regarding your conviction, sentence, or commitment that you or your attorney did not make on appeal, explain why the claim was not made on appeal (see *In re Dixon* (1953) 41 Cal.2d 756, 759):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
10. Administrative review:
- a. If your petition concerns conditions of confinement or other claims for which there are administrative remedies, failure to exhaust administrative remedies may result in the denial of your petition, even if it is otherwise meritorious. (See *In re Dexter* (1979) 25 Cal.3d 921, 925.) Explain what administrative review you sought or explain why you did not seek such review:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- b. Did you seek the highest level of administrative review available? ☐ Yes ☐ No  
*Attach documents that show you have exhausted your administrative remedies. (See People v. Duvall (1995) 9 Cal.4th 464, 474.)*
11. Other than direct appeal, have you filed any other petitions, applications, or motions with respect to this conviction, sentence, commitment, or issue in any court, including this court? (See *In re Clark* (1993) 5 Cal.4th 750, 767–769 and *In re Miller* (1941) 17 Cal.2d 734, 735.)  
☐ Yes If yes, continue with number 12. ☐ No If no, skip to number 14.

12. a. (1) Nature of proceeding (for example, "habeas corpus petition"): \_\_\_\_\_
- (2) Name of court: \_\_\_\_\_
- (3) Result (*attach order or explain why unavailable*): \_\_\_\_\_
- (4) Date of decision: \_\_\_\_\_
- (5) Case number or citation of opinion, if known: \_\_\_\_\_
- (6) All issues raised: (a) \_\_\_\_\_
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

- b. (1) Nature of proceeding: \_\_\_\_\_
- (2) Name of court: \_\_\_\_\_
- (3) Result (*attach order or explain why unavailable*): \_\_\_\_\_
- (4) Date of decision: \_\_\_\_\_
- (5) Case number or citation of opinion, if known: \_\_\_\_\_
- (6) All issues raised: (a) \_\_\_\_\_
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

13. If any of the courts listed in number 12 held a hearing, state name of court, date of hearing, nature of hearing, and result:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

14. Explain any delay in discovering or presenting the claims for relief and in raising the claims in this petition. (See *In re Robbins* (1998) 18 Cal.4th 770, 780; Pen. Code, § 1473(e).)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

15. Are you presently represented by counsel? ☐ Yes ☐ No If yes, state the attorney's name and address, if known:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

16. Do you have any petition, appeal, or other matter pending in any court? ☐ Yes ☐ No If yes, explain:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

17. If this petition might lawfully have been made to a lower court, state the circumstances justifying an application to this court:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

18. Answer the following questions if you are raising a claim of violation of the Racial Justice Act under Penal Code section 745(a):

a. Indicate which of the following apply to the case in which you are making a claim for violation of Penal Code section 745(a) (check all that apply):

- (1) ☐ Judgment is not final (for example, because an appeal is pending),
- (2) ☐ You are currently serving a sentence in the state prison or county jail under Penal Code 1170(h) for the felony conviction in which you are raising a Racial Justice Act claim,
- (3) ☐ This petition is filed **on or after** January 1, 2025, and judgment became final for a felony conviction on or after January 1, 2015, or
- (4) ☐ This petition is filed **on or after** January 1, 2026, and judgment is for a felony conviction.

b. I request relief based on the following (choose all that apply):

- (1) ☐ The judge, an attorney, a law enforcement officer, an expert, or a juror in the case exhibited bias or animus toward me because of my race, ethnicity, or national origin.
- (2) ☐ During in-court trial proceedings, the judge, an attorney, a law enforcement officer, an expert, or a juror used racially discriminatory language about my race, ethnicity, or national origin. (Racially discriminatory language does not include relaying language used by someone else that is relevant to the case, or giving a racially neutral and unbiased physical description of the suspect.)
- (3) ☐ I was charged with or convicted of a more serious offense than defendants of other races, ethnicities, or national origins who have engaged in similar conduct and are similarly situated, **and** the prosecution more frequently sought or obtained convictions for more serious offenses against people who share my race, ethnicity, or national origin in the county where the convictions were sought or obtained.
- (4) ☐ I received a longer or more severe sentence compared to similarly situated individuals convicted of the same offense **and**:
  - (a) ☐ longer or more severe sentences were more frequently imposed for the same offense on defendants who share my race, ethnicity, or national origin than on others in that county; **and/or**
  - (b) ☐ longer or more severe sentences were more frequently imposed for the same offense on defendants in cases with victims of one race, ethnicity, or national origin than in cases with victims of other races, ethnicities, or national origins in that county.

c. Is your claim based on a statement or conduct by a judge? ☐ Yes ☐ No

If yes, please state the judge's name:

d. Do you want appointed counsel? ☐ Yes ☐ No

If yes, can you afford to hire counsel? ☐ Yes ☐ No

e. Do you request permission to amend a pending petition for writ of habeas corpus with this claim? ☐ Yes ☐ No

(1) If yes, in what court is your petition pending? \_\_\_\_\_

(2) If yes, what is the case number of your pending petition? \_\_\_\_\_

f. Do you request disclosure of evidence relevant to a potential violation of Penal Code section 745(a)? ☐ Yes ☐ No

(1) ☐ The type of records or information sought is described as follows:

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(2) ☐ The reason the records or information are needed is as follows:

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g. Are you raising this claim for the first time? ☐ Yes ☐ No

If no, are you raising it again because of new evidence that could not have been previously known to you?

(1) ☐ **Yes** (*explain*):

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(2) ☐ **No** (*explain*):

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If you need additional space to answer any question on this petition, add an extra page and indicate that your answer is "continued on additional page."

I, the undersigned, say: I am the petitioner in this action. I declare under penalty of perjury under the laws of the State of California that the foregoing allegations and statements are true and correct, except as to matters that are stated on my information and belief, and as to those matters, I believe them to be true.

Date: \_\_\_\_\_



\_\_\_\_\_  
(SIGNATURE OF PETITIONER)



## VII. Habeas Petition Templates

In this section, you'll find templates for your Statement of Facts, Prayer for Relief, Arguments, and Exhibits. You don't have to use the templates, but they can give you an idea of what to include in your habeas petition. If a template isn't appropriate for your case, don't use it.

To help you keep track of the templates, we've labeled the bottom of each template with the **section name** and a **section symbol**, as shown in this table:

Section Name	Section Symbol
Statement of Facts (Board Denial)	▲
Statement of Facts (Governor Reversal)	◆
Prayer for Relief (Board Denial)	●
Prayer for Relief (Governor Reversal)	*
Arguments	♣
List of Exhibits	♠
Exhibit Cover Pages	♠CP
Letter to Clerk of Court	≈

You can find the correct template by looking for the correct section name or section symbol. For example, if you're looking for an **Argument** template, you'd look for a template that looks like this at the bottom of the page:

♣	Argument
---	----------

You can remove the templates from this packet and write directly on them, or you can copy the templates onto new sheets of paper. The templates have spaces where you can add facts from your own case, as shown in the example below:

The Board denied parole based on Petitioner's past substance use, as seen on page(s) <u>55-56, 61</u> of the hearing transcript.
However, Petitioner's past substance use is not evidence of current dangerousness because:
Petitioner has been sober since <u>2003</u> (Year).
Petitioner has not received a substance use-related RVR since <u>2002</u> (Year).
Petitioner has taken programming related to substance use, including <u>AA, Narcotics Anonymous, CB2 Life Skills</u> .
Petitioner spoke about their past substance use during their parole hearing, as seen on page(s) <u>20-22, 30-31, 35</u> of the hearing transcript.

Some templates also have checkboxes that you can check based on the facts of your case, as shown in the example below:

Petitioner has a positive record in prison regarding <i>(check all that apply)</i> :	
<input checked="" type="checkbox"/> Prison programming	<input checked="" type="checkbox"/> Insight / Accountability / Remorse
<input type="checkbox"/> Education	<input type="checkbox"/> Prison discipline
<input type="checkbox"/> Volunteer work	<input type="checkbox"/> Work history / Job training
<input checked="" type="checkbox"/> Parole Plans	<input type="checkbox"/> Other: _____

If the Governor reversed your parole grant, you should:

1. Use the **Statement of Facts** and **Prayer for Relief** templates that say **(Governor Reversal)** at the bottom.
2. Edit your **Argument** templates so they refer to the Governor (not the Board) and the Governor's reversal decision. For example, if a template says, "The Board denied parole based on Petitioner's life crime, as seen on page(s) \_\_\_\_\_ of the hearing transcript," you should edit it to say, "The Governor reversed Petitioner's parole grant based on Petitioner's life crime, as seen on page(s) \_\_\_\_\_ of the reversal decision."

## STATEMENT OF FACTS

### **Time in Prison**

Petitioner has been in prison since \_\_\_\_\_ (Year).

### **Conduct in Prison**

While in prison, Petitioner has participated in (*check all that apply*):

- |                                     |  |
|-------------------------------------|--|
| <input type="checkbox"/> Education  | <input type="checkbox"/> Vocational / Job Training |
| <input type="checkbox"/> Employment | <input type="checkbox"/> Volunteer Work            |

Petitioner has taken the following self-help programs: \_\_\_\_\_  
\_\_\_\_\_.

Petitioner has received \_\_\_\_\_ (#) disciplinary infractions in prison. Petitioner has not received any *violent* disciplinary infractions since \_\_\_\_\_ (Year). Petitioner has not received *any* disciplinary infractions since \_\_\_\_\_ (Year).

### **Parole Eligibility and Considerations**

Petitioner is eligible for (*check all that apply*):

- |   |   |
|---|---|
| <input type="checkbox"/> Youth Offender Parole                                      | <input type="checkbox"/> Elderly Parole |
| <input type="checkbox"/> Consideration of Intimate Partner Battering (IPB) Evidence |   |

### **Parole Denial**

Petitioner had a parole hearing on \_\_\_\_\_ (Date). The Board of Parole Hearings denied Petitioner parole for \_\_\_\_\_ (#) years. The Board denied parole because of Petitioner's (*check all that apply*):

- |   |   |
|---|---|
| <input type="checkbox"/> Criminal History           | <input type="checkbox"/> Unstable Social History              |
| <input type="checkbox"/> Past Substance Use         | <input type="checkbox"/> Innocence Claim / Life Crime Account |
| <input type="checkbox"/> Life Crime                 | <input type="checkbox"/> Insight / Accountability / Remorse   |
| <input type="checkbox"/> Prison Programming         | <input type="checkbox"/> Release Plans                        |
| <input type="checkbox"/> Prison Disciplinary Record | <input type="checkbox"/> Other: _____                         |

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## STATEMENT OF FACTS

### **Time in Prison**

Petitioner has been in prison since \_\_\_\_\_ (Year).

### **Positive Conduct in Prison**

While in prison, Petitioner has participated in (*check all that apply*):

- |                                     |  |
|-------------------------------------|--|
| <input type="checkbox"/> Education  | <input type="checkbox"/> Vocational / Job Training |
| <input type="checkbox"/> Employment | <input type="checkbox"/> Volunteer Work            |

Petitioner has taken the following self-help programs: \_\_\_\_\_  
\_\_\_\_\_.

Petitioner has received \_\_\_\_\_ (#) disciplinary infractions in prison. Petitioner has not received any *violent* disciplinary infractions since \_\_\_\_\_ (Year). Petitioner has not received *any* disciplinary infractions since \_\_\_\_\_ (Year).

### **Parole Eligibility and Considerations**

Petitioner is eligible for (*check all that apply*):

- |   |   |
|---|---|
| <input type="checkbox"/> Youth Offender Parole                                      | <input type="checkbox"/> Elderly Parole |
| <input type="checkbox"/> Consideration of Intimate Partner Battering (IPB) Evidence |   |

### **Parole Grant**

Petitioner had a parole hearing on \_\_\_\_\_ (Date). The Board of Parole Hearings granted Petitioner parole, finding that Petitioner does not pose an unreasonable risk to safety.

### **Governor Reversal**

The Governor reversed Petitioner's parole grant on \_\_\_\_\_ (Date).

The Governor reversed the grant because of Petitioner's (*check all that apply*):

- |   |   |
|---|---|
| <input type="checkbox"/> Criminal History           | <input type="checkbox"/> Unstable Social History              |
| <input type="checkbox"/> Past Substance Use         | <input type="checkbox"/> Innocence Claim / Life Crime Account |
| <input type="checkbox"/> Life Crime                 | <input type="checkbox"/> Insight / Accountability / Remorse   |
| <input type="checkbox"/> Prison Programming         | <input type="checkbox"/> Release Plans                        |
| <input type="checkbox"/> Prison Disciplinary Record | <input type="checkbox"/> Other: _____                         |



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## **PRAYER FOR RELIEF**

Petitioner is without a remedy save by writ of habeas corpus.

WHEREFORE, Petitioner prays that this Court:

1. Issue an Order to Show Cause;
2. Appoint counsel for Petitioner;
3. Declare the rights of the parties;
4. Vacate the Board's decision denying parole; and
5. Grant all other relief necessary to promote the ends of justice.

Dated: \_\_\_\_\_

Respectfully submitted,

\_\_\_\_\_  
Petitioner Signature

\_\_\_\_\_  
Petitioner Name

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## **PRAYER FOR RELIEF**

Petitioner is without a remedy save by writ of habeas corpus.

WHEREFORE, Petitioner prays that this Court:

1. Issue an Order to Show Cause;
2. Appoint counsel for Petitioner;
3. Declare the rights of the parties;
4. Vacate the Governor's reversal decision and reinstate the Board's grant of parole;
5. Order Petitioner's release from custody; and
6. Grant all other relief necessary to promote the ends of justice.

Dated: \_\_\_\_\_

Respectfully submitted,

\_\_\_\_\_  
Petitioner Signature

\_\_\_\_\_  
Petitioner Name

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### **Petitioner's static criminal history is not evidence of current dangerousness**

The Board may consider a parole candidate's criminal history when determining parole suitability. (Cal. Code Regs., tit. 15, § 2402, subd. (b).) A candidate's history may indicate *unsuitability* for parole if it contains multiple instances where the candidate "inflicted or attempted to inflict serious injury on a victim." (Cal. Code Regs., tit. 15, § 2402, subd. (c)(2).) However, if a candidate lacks a "*significant history of violent crime*," then their record *supports* suitability. (Cal. Code Regs., tit. 15, § 2402, subd. (d)(6), emphasis added; cf. *In re Smith* (2003) 109 Cal.App.4th 489, 504–05 [finding "nothing in the governing statutes or regulations to support" denial based on candidate's nonviolent criminal record].)

A parole candidate's criminal history alone cannot establish *current* dangerousness due to "the immutability of . . . past criminal history and its diminishing predictive value for future conduct." (*In re Roderick* (2007) 154 Cal.App.4th 242, 277.) Thus, even if a parole candidate has a significant history of violence, the Board must consider how the passage of time and attendant changes in maturity, understanding, and behavior may have decreased the candidate's risk to public safety. (See *In re Lawrence* (2008) 44 Cal.4th 1181, 1219–20.)

The Board denied parole based on Petitioner's criminal history, as seen on page(s) \_\_\_\_\_ of the hearing transcript.

However, Petitioner's criminal history is not evidence of *current* dangerousness because:

Before the life crime, Petitioner had been convicted of \_\_\_\_ (#) crime(s).  
Besides the life crime, Petitioner has been convicted of \_\_\_\_ (#) violent crime(s).  
Petitioner has not received any violent RVRs in prison since \_\_\_\_ (Year).  
Petitioner has insight into and takes responsibility for their criminal history, as seen on page(s) \_\_\_\_\_ of the hearing transcript.  
Petitioner has taken programs to address their past criminal behavior, including \_\_\_\_\_.

Petitioner's criminal history "no longer realistically constitute[s] a reliable or accurate indicator of [their] current dangerousness." (*Lawrence, supra*, 44 Cal.4th at 1219.) Therefore, this immutable factor cannot support their parole denial.

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**The life crime is not evidence of current dangerousness in light of Petitioner's post-conviction record**

The life crime “does not in and of itself provide some evidence of current dangerousness” unless *current* evidence indicates that the parole candidate still poses a current unreasonable risk to public safety. (*In re Lawrence* (2008) 44 Cal.4th 1181, 1214.) Over time, the life crime becomes less reliable in predicting a parole candidate's current dangerousness. (See *In re Lee* (2006) 143 Cal.App.4th 1400, 1412 [“Simply from the passing of time, [Petitioner]'s crimes almost 20 years ago have lost much of their usefulness in foreseeing the likelihood of future offenses”]; see also *In re Scott* (2005) 133 Cal.App.4th 573, 595 [“the predictive value of the commitment offense may be very questionable after a long period of time”].) Further, if a parole candidate's record shows growth and maturation, then the crime “may no longer realistically constitute a reliable or accurate indicator of the prisoner's current dangerousness.” (*Lawrence, supra*, 44 Cal.4th at 1219.)

The Board denied parole based on Petitioner's life crime, as seen on page(s) \_\_\_\_\_ of the hearing transcript.

However, the crime is not evidence of Petitioner's *current* dangerousness because:

The crime occurred \_\_\_\_\_ (#) years ago.

Petitioner takes responsibility and has remorse for the crime, as seen on page(s) \_\_\_\_\_ of the hearing transcript.

Petitioner has a positive record in prison regarding (*check all that apply*):

- |   |   |
|---|---|
| <input type="checkbox"/> Prison programming | <input type="checkbox"/> Insight / Accountability / Remorse |
| <input type="checkbox"/> Education          | <input type="checkbox"/> Prison discipline                  |
| <input type="checkbox"/> Volunteer work     | <input type="checkbox"/> Work history / Job training        |
| <input type="checkbox"/> Parole Plans       | <input type="checkbox"/> Other: _____                       |

Given the passage of time and Petitioner's current attitude and behavior, the “unchanging factor of the gravity of petitioner's commitment offense ha[s] no predictive value regarding [their] *current* threat to public safety, and thus provides no support for the [Board]'s conclusion that petitioner is unsuitable for parole at the present time.” (*Lawrence, supra*, 44 Cal.4th at 1226, emphasis in original.)

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### **Petitioner's past substance use is not evidence of current dangerousness**

A parole candidate's past substance use is not itself evidence of current dangerousness. (*In re Morganti* (2012) 204 Cal.App.4th 904, 927.) This is especially true where the record shows "little current likelihood of drug relapse, let alone a return to violent conduct as a result of it." (*In re Smith* (2003) 114 Cal.App.4th 343, 371–72.) "The risk a former drug or alcohol abuser will relapse, which can never be entirely eliminated, cannot of itself warrant the denial of parole, because if it did the mere fact an [incarcerated person] was a former substance abuser would 'eternally provide adequate support for a decision that [he] is unsuitable for parole.' . . . This cannot be the case." (*Morganti, supra*, 204 Cal.App.4th at 921, quoting *In re Lawrence* (2008) 44 Cal.4th 1181, 1226.)

The Board denied parole based on Petitioner's past substance use, as seen on page(s) \_\_\_\_\_ of the hearing transcript.

However, Petitioner's past substance use is not evidence of current dangerousness because:

Petitioner has been sober since \_\_\_\_\_ (Year).

Petitioner has not received a substance use-related RVR since \_\_\_\_\_ (Year).

Petitioner has taken programming related to substance use, including \_\_\_\_\_.

Petitioner spoke about their past substance use during their parole hearing, as seen on page(s) \_\_\_\_\_ of the hearing transcript.

Petitioner spoke about their coping skills during their parole hearing, as seen on page(s) \_\_\_\_\_ of the hearing transcript.

In light of Petitioner's record of sobriety, and "in the absence of some evidence to support a reasonable belief that [Petitioner] might start using drugs again," Petitioner's past substance use does not provide some evidence that they are currently dangerous. (*Smith, supra*, 114 Cal.App.4th at 371.)

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**The static factors in Petitioner’s case are not evidence of current dangerousness**

The Board may consider the presence of static or immutable factors — such as a parole candidate’s social history or prior attitude toward the life crime — when determining parole suitability. (Cal. Code Regs., tit. 15, § 2402, subd. (b).) However, the Board may deny parole based on static factors “*only* if those facts support the ultimate conclusion that [the parole candidate] *continues* to pose an unreasonable risk to public safety.” (*In re Lawrence* (2008) 44 Cal.4th 1181, 1221, emphasis in original.)

Over time, static factors in a parole candidate’s history offer “diminishing predictive value for future conduct.” (*In re Roderick* (2007) 154 Cal.App.4th 242, 277.) By contrast, “[T]he passage of time — and the attendant changes in a [parole candidate]’s maturity, understanding, and mental state — [are] highly probative to the determination of current dangerousness.” (*Lawrence, supra*, 44 Cal.4th at 1219–20.) Accordingly, the relevance of static factors can be “minimized over time by changes in attitude, acceptance of responsibility, and a commitment to living within the strictures of the law.” (*Id.* at 1219.)

The Board denied parole based on static factors in Petitioner’s case, as seen on page(s) \_\_\_\_\_ of the hearing transcript.

However, these static factors from Petitioner’s past are not evidence of Petitioner’s *current* risk to public safety because:

The static factors in Petitioner’s case primarily existed before they came to prison in \_\_\_\_\_ (*Year*).

Today, Petitioner has remorse and takes accountability for their actions, as seen on page(s) \_\_\_\_\_ of the parole hearing transcript. This shows Petitioner’s current maturity, understanding, and acceptance of responsibility.

Petitioner has not received any RVRs since \_\_\_\_\_ (*Year*), which shows their commitment to following the law.

Given the passage of time and Petitioner’s increased maturity, acceptance of responsibility, and commitment to following the law, the static factors from their past are no longer reliable evidence of their *current* risk to public safety.

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### **Petitioner's disciplinary record is not evidence of current dangerousness**

When evaluating parole suitability, the Board may consider whether a parole candidate has “engaged in serious misconduct in prison.” (Cal. Code Regs., tit. 15, § 2402, subd. (c)(6).) However, “Not every breach of prison rules provides rational support for a finding of unsuitability.” (*In re Hunter* (2012) 205 Cal.App.4th 1529, 1543.) “[P]rison discipline, like any other parole unsuitability factor, ‘supports a denial of parole only if it is rationally indicative of the [parole candidate]’s current dangerousness.’” (*Ibid.*, quoting *In re Shaputis* (2011) 53 Cal.4th 192, 219 (*Shaputis II*).)

Whether prison misconduct indicates current dangerousness depends on multiple factors, including:

- the nature and seriousness of the infraction (*In re Perez* (2016) 7 Cal.App.5th 65, 96 (*Perez*) [excessive physical contact during prison visit did not indicate dangerousness]);
- the extent of the parole candidate’s disciplinary record (*Perez, supra*, 7 Cal.App.5th at 74–75, 96 [seven infractions was not extensive]; *In re Reed* (2009) 171 Cal.App.4th 1071, 1085 (*Reed*) [thirty disciplinary infractions was extensive]); and
- other evidence indicating the parole candidate’s ability to obey laws (*Perez, supra*, 7 Cal.App.5th at 95 [education, realistic release plans, and job prospects indicated ability to obey laws]; *Reed, supra*, 171 Cal.App.4th at 1085 [pattern of misbehavior indicated inability to obey laws]).

Although the Board may consider the timing of a parole candidate’s misconduct, recent misconduct does not necessarily indicate dangerousness. (See *Perez, supra*, 7 Cal.App.5th at 95 [disciplinary infraction received one year after being directed to remain disciplinary-free did not support parole denial].)

The Supreme Court has held that “the passage of time — and the attendant changes in a [parole candidate’s] maturity, understanding, and mental state” are “highly probative to the determination of current dangerousness.” (*In re Lawrence* (2008) 44 Cal.4th 1181, 1219–20.) Therefore, even if a parole candidate has previously engaged in serious misconduct, their “threat to public safety [can] be minimized over time by changes in attitude, acceptance of responsibility, and a commitment to living within the strictures of the law.” (*Id.* at 1219.)

The Board denied parole based on Petitioner's disciplinary record, as seen on page(s) \_\_\_\_\_ of the hearing transcript.

However, Petitioner's disciplinary record is not evidence of *current* dangerousness because:

Petitioner has received \_\_\_\_\_ (#) disciplinary infractions during their \_\_\_\_\_ (#) years in prison. Of these infractions, only \_\_\_\_\_ (#) have been serious Rules Violation Reports (RVRs).

Petitioner has not received any *serious* RVRs since \_\_\_\_\_ (Year).

Petitioner has not received *any* disciplinary infractions since \_\_\_\_\_ (Year).

Petitioner takes responsibility for their disciplinary record, as seen on page(s) \_\_\_\_\_ of the hearing transcript.

Petitioner has taken the following programs to address their past misconduct:

\_\_\_\_\_.

Petitioner's ability to obey the law upon release is further indicated by their (*check all that apply*):

☐ Education

☐ Work history

☐ Vocational training

☐ Realistic release plans

Instances of prison misconduct may support a parole denial "*only* if those facts support the ultimate conclusion that an [individual] *continues* to pose an unreasonable risk to public safety." (*Lawrence, supra*, 44 Cal.4th at 1221, emphasis in original.) Petitioner's disciplinary record does not show that they *currently* pose an unreasonable risk to public safety; therefore, it cannot support the parole denial.

**Petitioner has taken sufficient self-help programming in prison**

The Board cannot deny parole simply because a parole candidate might benefit from additional self-help programming. (*In re Jackson* (2011) 193 Cal.App.4th 1376, 1388 (*Jackson*).) Participation in prison programming is evidence of a candidate’s “enhanced ability to function within the law upon release.” (Cal. Code Regs., tit. 15, § 2402, subd. (d)(9).) However, “[N]othing in the governing regulations . . . require[s] any minimum quantity of rehabilitative programming.” (*In re Rodriguez* (2011) 193 Cal.App.4th 85, 101.)

The Board may only require more programming if the parole candidate would pose an *unreasonable risk to public safety* without it. (*Jackson, supra*, 193 Cal.App.4th at 1388 [“Many people in and out of prison could benefit from self-help programs; that does not mean such people are necessarily likely to commit violent crimes. [Petitioner]’s purported failure to attend sufficient self-help programs does not constitute some evidence that he is currently dangerous”].)

The Board recommended that Petitioner take more self-help programming, as seen on page(s) \_\_\_\_\_ of the hearing transcript.

However, public safety does not require Petitioner to take more programs because:

Petitioner has taken multiple self-help programs related to their risk factors, including \_\_\_\_\_.  
Petitioner uses lessons from their self-help programs in their daily life, as discussed on page(s) \_\_\_\_\_ of the hearing transcript.  
Petitioner has not received any serious Rules Violation Reports (RVRs) since \_\_\_\_\_ (Year), which further demonstrates their ability to obey the law.

Petitioner does not pose an unreasonable risk to public safety based on their programming. Therefore, the Board could not legally deny parole based on Petitioner’s programming.

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### **Petitioner has sufficient insight and remorse**

The Board cannot deny parole simply because a parole candidate has incomplete insight into their actions. (*In re Ryner* (2011) 196 Cal.App.4th 533, 548 (*Ryner*).) A candidate’s insight or remorse can only support a parole denial if there is an “*identifiable and material* deficiency in the [candidate]’s understanding and acceptance of responsibility” for the crime (*id.* at 548, fn. 2, emphasis added; see also *In re Rodriguez* (2011) 193 Cal.App.4th 85, 99, fn. 9), and that “deficiency is ‘*probative to the central issue of current dangerousness when considered in light of the full record*’” (*In re Shelton* (2020) 53 Cal.App.5th 650, 667, quoting *In re Lawrence* (2008) 44 Cal.4th 1181, 1221, emphasis in original).

Further, the Board cannot require parole candidates to demonstrate insight or remorse in a specific way. (*In re Shaputis* (2008) 44 Cal.4th 1241, 1260, fn. 18 [“[E]xpressions of insight and remorse will vary from [person] to [person]”].) Courts must ensure that “lack of insight” is not used as “shorthand for subjective perceptions based on intuition or undefined criteria that are impossible to refute.” (*Ryner, supra*, 196 Cal.App.4th at 548.)

The Board denied parole based on Petitioner’s insight and/or remorse, as seen on page(s) \_\_\_\_\_ of the hearing transcript.

However, this was unlawful because:

Petitioner understands the causes of their past actions, as seen on page(s) \_\_\_\_\_ of their parole hearing transcript.

Petitioner takes responsibility and has remorse for their past actions, as seen on page(s) \_\_\_\_\_ of their parole hearing transcript.

Petitioner has taken programs relevant to developing insight and remorse, including \_\_\_\_\_.

Petitioner “acknowledged the material aspects of [their] conduct and offense, show[ed] an understanding of its causes, and demonstrated remorse.” (*Ryner, supra*, 196 Cal.App.4th at 549.) Further, even if Petitioner *did* lack insight, no “evidence connect[s] any such deficit to the conclusion [they] would present a risk to public safety if released on parole.” (*In re Morganti* (2012) 204 Cal.App.4th 904, 925.) Thus, Petitioner’s insight and remorse cannot support a parole denial.

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**The Board cannot deny parole based on the timing or duration of Petitioner's accountability or remorse**

The Board cannot require a parole candidate to demonstrate accountability and remorse for a specific period of time. "None of the suitability factors require that a prisoner's gains be maintained 'over an extended period of time.'" (*In re Barker* (2007) 151 Cal.App.4th 346, 368.)

Therefore, if a parole candidate accepts responsibility and demonstrates remorse for their actions, the Board cannot deny parole simply because the parole candidate failed to do so earlier. (*In re Elkins* (2006) 144 Cal.App.4th 475, 495.) "To deny parole, the reason must relate to [the parole candidate]'s continued unreasonable risk to public safety. So long as [the parole candidate] genuinely accepts responsibility, it does not matter how longstanding or recent it is. As Justice Felix Frankfurter observed, 'Wisdom too often never comes, and so one ought not to reject it merely because it comes late.' The same can be said about responsibility and remorse." (*In re Lee* (2006) 143 Cal.App.4th 1400, 1414, quoting *Henslee v. Union Planters Bank* (1949) 335 U.S. 595, 600 (dis. opn. of Frankfurter, J.).)

The Board denied parole based on the timing of Petitioner's accountability / remorse, as seen on page(s) \_\_\_\_\_ of the hearing transcript.

However, this was unlawful because:

Petitioner takes responsibility for their actions, as seen on page(s) \_\_\_\_\_ of the hearing transcript.

Petitioner shows understanding and remorse for their actions, as seen on page(s) \_\_\_\_\_ of the hearing transcript.

Petitioner has taken self-help programs related to accountability and remorse, including \_\_\_\_\_.

The timing of Petitioner's accountability and remorse is unrelated to Petitioner's current dangerousness. (See *Lee, supra*, 143 Cal.App.4th at 1414.) Therefore, this basis for denial cannot stand.

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### **The Board unlawfully denied parole based on Petitioner’s innocence claim**

The Board cannot deny parole based on a parole candidate’s innocence claim. The “fundamental and overriding question for the Board” in parole hearings is whether the parole candidate currently poses an unreasonable risk to public safety. (*In re Lawrence* (2008) 44 Cal.4th 1181, 1213.) To ensure that the Board remains focused on *current* risk, the law limits consideration of historical factors like the life crime. Parole candidates can refuse to discuss the crime during their parole hearing and the Board cannot hold that refusal against them. (Cal. Code Regs., tit. 15, § 2236.) Additionally, the Board cannot require a parole candidate to admit guilt to any crime.<sup>1</sup> (Pen. Code, § 5011, subd. (b).) “These rules follow from ‘the fundamental consideration in parole decisions,’ which is ‘public safety,’ not readjudication of the offense.” (*In re Swanigan* (2015) 240 Cal.App.4th 1, 14, quoting *Lawrence, supra*, 44 Cal.4th at 1205.)

In addition, the Board cannot claim that a parole candidate lacks insight or credibility solely because they assert their innocence. “A conclusion that [a parole candidate] lacks insight into the commitment offense ‘is not some evidence of current dangerousness unless it is based on evidence in the record . . .’ that legally may be relied upon. The Board ‘cannot rely on the fact that the [parole candidate] insists on his innocence; the express provisions of Penal Code section 5011 and section 2236 of Title 15 of the California Code of Regulations prohibit requiring an admission of guilt as a condition for release on parole.’” (*Swanigan, supra*, 240 Cal.App.4th at 14, quoting *In re McDonald* (2010) 189 Cal.App.4th 1008, 1023.)

The Board denied parole based on Petitioner’s innocence claim, as seen on page(s) _____ of the hearing transcript.
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Therefore, the Board unlawfully denied Petitioner parole.

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<sup>1</sup> Similarly, the Board’s psychologists cannot require parole candidates to admit guilt during risk assessment interviews. (See *In re Perez* (2016) 7 Cal.App.5th 65, 89 [Board prohibited from relying on risk assessment where psychologist’s “concerns about [the parole candidate]’s dangerousness, including her conclusion that he was at moderate risk for violence, were largely based on his refusal to ‘accept responsibility for the crime’”].)

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### **Petitioner's account of the life crime is not evidence of current dangerousness**

The Board cannot deny parole simply because the parole candidate's version of the life crime differs from the official record. (*In re Twinn* (2010) 190 Cal.App.4th 447, 466.) A parole candidate "need not agree or adopt the official version of a crime in order to demonstrate insight and remorse." (*Twinn, supra*, 190 Cal.App.4th at 466; see also *In re Sanchez* (2012) 209 Cal.App.4th 962, 973 [finding the "Board erred in requiring 'official record' fealty"]; *In re Pugh* (2012) 205 Cal.App.4th 260, 269 [holding candidate's "refusal to agree with the prosecution's version of the crime does not support a finding of lack of insight"].)

The Board may only deny parole based on a candidate's account of the crime if discrepancies in the account show that the candidate is currently unreasonably dangerous. (*Pugh, supra*, 205 Cal.App.4th at 266.) A candidate's account of the crime only demonstrates current dangerousness if it is "contrary to the facts established at trial and is inherently improbable" (*id.* at 273), or if it is "physically impossible and . . . strain[s] credulity such that [the] explanation [i]s delusional, dishonest, or irrational" (*Twinn, supra*, 190 Cal.App.4th at 467). By contrast, "[A]ny difference in [the candidate]'s version of the crime provides no evidence of current dangerousness where [their] version is not inherently incredible and is not inconsistent with the evidence established in the case." (*Pugh, supra*, 205 Cal.App.4th at 266.)

Petitioner discussed their account of the life crime on page(s) \_\_\_\_\_ of the hearing transcript.

Petitioner takes responsibility and has remorse for their actions in the life crime, as seen on page(s) \_\_\_\_\_ of the hearing transcript.

Nonetheless, the Board denied parole based on Petitioner's account of the life crime, as seen on page(s) \_\_\_\_\_ of the hearing transcript.

Because Petitioner's "version of the crime was not physically impossible and did not strain credulity such that [their] explanation was delusional, dishonest, or irrational," the Board could not legally deny parole on this basis. (*Twinn, supra*, 190 Cal.App.4th at 467.) Therefore, the Board improperly denied Petitioner parole.

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## **The Board failed to give “great weight” to Petitioner’s youth parole factors**

The Board must provide a “meaningful opportunity for release” to parole candidates who committed the life crime as a young person. (Sen. Bill No. 260 (2013–14 Reg. Sess.) § 1.) In pursuit of this goal, the law limits the Board’s discretion when evaluating such parole candidates. When the Board evaluates most other parole candidates, “[T]he importance attached to any circumstance or combination of circumstances . . . is left to the judgment of the panel.” (Cal. Code Regs., tit. 15, § 2402, subds. (c), (d).) For youth-convicted parole candidates,<sup>1</sup> however, the Board *must* assign greater significance to certain mitigating factors. Specifically, the Board “*shall give great weight* to the diminished culpability of youth as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity” of the parole candidate. (Pen. Code, § 4801, subd. (c), emphasis added.)

Factors that reduce the culpability of young people include the impact of negative or abusive environments; their limited ability to control or extract themselves from dysfunctional or criminogenic environments; their diminished susceptibility to deterrence; their ongoing psychological and neurological development; and their disadvantages in criminal proceedings. (Cal. Code Regs., tit. 15, § 2446, subd. (a).) The “hallmark features of youth” include immaturity; impulsivity; recklessness; irresponsibility; a limited ability to appreciate risks and consequences; an increased vulnerability to negative influences and outside pressures; and a heightened capacity for change. (Cal. Code Regs., tit. 15, § 2446, subd. (b).) Finally, factors that demonstrate growth and increased maturity include positive institutional conduct; reflection; improved impulse control; pro-social relationships; independence from negative influences; remorse; recognition of human worth; and other evidence of rehabilitation. (Cal. Code Regs., tit. 15, § 2446, subd. (c).) Thus, for youth-convicted parole candidates to have a “meaningful opportunity for release,” the Board must give “great weight” to their youthful characteristics at the time of the crime and their rehabilitation since.

Once the Board gives great weight to the youth factors, the Board “*shall* find a youth offender suitable for parole unless the panel determines . . . that the youth

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<sup>1</sup> “Youth-convicted parole candidates” refers to candidates who were under 26 years old at the time of the life crime. The Penal Code refers to people in this group as “youth offenders.” (E.g., Pen. Code, § 4801, subd. (c).)

offender remains a current, unreasonable risk to public safety.” (Cal. Code Regs., tit. 15, § 2445, subd. (d), emphasis added.) This means that the Board must grant parole unless there is “substantial, relevant, and credible evidence of aggravating factors to neutralize the ‘great weight’ of the mitigating circumstances.” (*People v. Walker* (2024) 16 Cal.5th 1024, 1036.)

Petitioner was \_\_\_\_ (age) at the time of the crime. They qualify for youth parole consideration, as discussed on page(s) \_\_\_\_\_ of the hearing transcript.

Thus, the Board was required to give *great weight* to the following mitigating factors:

At the time of the crime, Petitioner had diminished culpability due to their (*check all that apply*):

- ☐ Ongoing brain development      ☐ Reduced susceptibility to deterrence
- ☐ Negative / abusive environment      ☐ Limited control over their environment
- ☐ Limited ability to remove themselves from negative environments
- ☐ Disadvantages as a young person in criminal proceedings

At the time of the crime, Petitioner exhibited the hallmark features of youth based on their (*check all that apply*):

- ☐ Immaturity    ☐ Irresponsibility    ☐ Impulsivity    ☐ Recklessness
- ☐ Limited ability to appreciate risks and consequences
- ☐ Vulnerability to negative influences and outside pressures
- ☐ Heightened capacity for change

Since the life crime, Petitioner has shown growth and increased maturity through their (*check all that apply*):

- ☐ Positive institutional conduct    ☐ Reflection    ☐ Remorse
- ☐ Improved impulse control      ☐ Prosocial relationships
- ☐ Independence from negative influences
- ☐ Recognition of human worth and potential
- ☐ Other evidence of rehabilitation, such as \_\_\_\_\_



The Board did not give great weight to Petitioner’s mitigating youth factors. At most, the Board “gave lip service to the need to afford ‘great weight’” to the youth factors. (*In re Perez* (2016) 7 Cal.App.5th 65, 93.) In denying parole, the Board did not identify “substantial, relevant, and credible evidence” (*Walker, supra*, 16 Cal.5th at 1036) that Petitioner currently poses an unreasonable risk to public safety (see *In re Lawrence* (2008) 44 Cal.4th 1181, 1213 [“current dangerousness is the fundamental and overriding question for the Board”]). Because the Board neglected its statutory mandate to give great weight to Petitioner’s mitigating youth factors, its decision denying parole was unlawful.

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## **The Board failed to give “special consideration” to Petitioner’s elderly parole factors**

California law makes parole more attainable for elderly people serving lengthy sentences. For elderly parole candidates, the Board must “give *special consideration* to whether age, time served, and diminished physical condition, if any, have reduced the [elderly person’s] risk for future violence.” (Pen. Code, § 3055, subd. (c), emphasis added.)<sup>1</sup> This law reflects the fact that, “[D]ue to their age, the recidivism rate of lifers is dramatically lower than that of all other state prisoners, indeed infinitesimal.” (*In re Stonerod* (2013) 215 Cal.App.4th 596, 634.)<sup>2</sup> California’s elderly parole law is also meant to reduce the fiscal impact of incarcerating those with high medical needs. (See *People v. Contreras* (2018) 4 Cal.5th 349, 374–75; see also *In re Hoze* (2021) 61 Cal.App.5th 309, 313–14.) Thus, the Board’s mandate to give special consideration to elderly parole candidates is based on prudent public safety and fiscal policy.

Courts have held that an elderly parole candidate’s age and physical condition may reduce their dangerousness enough to overcome deficiencies in insight. (See *In re Morganti* (2012) 204 Cal.App.4th 904, 923, quoting *In re Shaputis* (2011) 53 Cal.4th 192, 226 (conc. opn. of Liu, J.) [“lack of insight is not necessarily indicative of present dangerousness, as is ‘most obviously the case

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<sup>1</sup> Under the court-ordered Elderly Parole Program, people are eligible for elderly parole consideration if they are at least 60 years old and have served at least 25 years on their sentence. (See *In re Hoze* (2021) 61 Cal.App.5th 309, 314; *Brown v. Plata* (2011) 563 U.S. 493, 499–500.) Under the statutory program, some people are eligible for elderly parole consideration if they are at least 50 years old and have served at least 20 years of their sentence. (Pen. Code, § 3055, subd. (a).)

<sup>2</sup> See 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) 1, 17 (less than one percent recidivism rate for people released from life sentences for murder convictions). See also Kazemian, National Institute of Justice, *Pathways to Desistance From Crime Among Juveniles and Adults: Applications to Criminal Justice Policy and Practice* at 3 (November 8, 2021) (“The association between age and crime is one of the most established facts in the field of criminology”); *id.* at 1 (“Barring exceptional circumstances for those who pose a clear threat to public safety, there is no empirical basis for incarcerating individuals for decades past mid-adulthood”).

when [a parole candidate], due to advanced age and infirmity, is no longer capable of being dangerous, *no matter how little insight he has into previous criminal behavior*”], emphasis added in *Morganti*.)

Additionally, the Board cannot dismiss a parole candidate’s elderly parole factors simply because the candidate is still physically capable of committing a crime; a *hypothetical* ability is not a legal basis upon which to deny parole, without evidence that the candidate continues to pose an *actual*, unreasonable risk to public safety. (Cf. *People v. Lewis* (2024) 101 Cal.App.5th 401, 409 [an incarcerated person’s “mere capacity to engage in such [criminal] conduct has no tendency to prove that it is likely, let alone that there is an unreasonable risk, that [they] will actually engage in such conduct”].)

Petitioner qualifies for elderly parole consideration, as discussed on page(s) \_\_\_\_\_ of the hearing transcript.

Therefore, the Board was required to give *special consideration* to the following mitigating factors:

At the time of the parole hearing, Petitioner was \_\_\_\_\_ years old and had served \_\_\_\_\_ years in prison.

Petitioner’s physical condition is reduced due to (*check all that apply*):

☐ Reduced mobility                      ☐ Reduced strength

☐ Impaired hearing                      ☐ Impaired vision

☐ Medical/Health condition(s): \_\_\_\_\_

☐ Other: \_\_\_\_\_

However, the Board did *not* give special consideration to Petitioner’s elderly parole factors in its decision denying parole. Having failed to address how Petitioner’s age, time served, and physical condition “related to [Petitioner’s] risk for future violence, the [Board] cannot be viewed as having given meaningful consideration to the elderly parole factors, much less the ‘special consideration’ required by Penal Code section 3055, subdivision (c).” (*In re Shelton* (2020) 53 Cal.App.5th 650, 669–70.) Therefore, the parole denial was illegal.



## LIST OF EXHIBITS

**Exhibit A.** Parole Suitability Hearing Transcript, dated \_\_\_\_\_

**Exhibit B.** Comprehensive Risk Assessment, dated \_\_\_\_\_

**Exhibit C.** \_\_\_\_\_

**Exhibit D.** \_\_\_\_\_

**Exhibit E.** \_\_\_\_\_



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# **EXHIBIT A**

**Parole Suitability Hearing Transcript, dated \_\_\_\_\_**

Number of pages in exhibit: \_\_\_\_\_

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# **EXHIBIT B**

**Comprehensive Risk Assessment, dated \_\_\_\_\_**

**Number of pages in exhibit: \_\_\_\_\_**

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# EXHIBIT C

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Number of pages in exhibit: \_\_\_\_\_

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# EXHIBIT D

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Number of pages in exhibit: \_\_\_\_\_

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# EXHIBIT E

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Number of pages in exhibit: \_\_\_\_\_

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Date: \_\_\_\_\_

Clerk of the Court

\_\_\_\_\_ County Superior Court

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(Court address)

**Re: *In re* \_\_\_\_\_(your full name), on Habeas Corpus**

Dear Clerk of the Court:

Please accept for filing the Petition for Writ of Habeas Corpus and Supporting Memorandum of Points and Authorities in the above-referenced matter.

Also enclosed is an additional copy of the cover to be file-stamped and returned to me in the accompanying self-addressed, postage pre-paid envelope.

Sincerely,

\_\_\_\_\_  
Your Signature

\_\_\_\_\_  
Your Name

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## CHAPTER FOUR: FILING YOUR HABEAS PETITION IN THE SUPERIOR COURT

You've finished writing your habeas petition. Congratulations! Now, it's time to file your habeas petition in the superior court. This chapter walks you through how to do that.

- In **Section I**, you'll put everything together into one packet for the court.
- In **Section II**, you'll do a final review of your documents.
- In **Section III**, you'll mail your habeas petition to the court.
- **Section IV** explains what to do after you've filed your habeas petition.

**REMINDER:** You should make and keep a copy of *everything* you send to the court, even if it's just a handwritten copy. The court probably won't return your documents to you, so it's important to keep your own copies for your records.

## I. Putting Everything Together

The first step in filing your habeas petition is putting everything together so you can mail it to the court. Here's how you should stack your papers, from top to bottom (the **Letter to the Clerk of Court** should be at the top of your stack):

- ☐ **Letter to the Clerk of Court** (≅)
- ☐ **Stamped envelope** that's addressed to yourself
- ☐ Extra copy of the Form HC-001 **cover page** (for the court clerk to stamp and return to you in the self-addressed envelope)
- ☐ **Form HC-001** — *Petition for Writ of Habeas Corpus*
  - Remember to sign and date the last page of the HC-001 form
- ☐ **Statement of Facts** (▲ for Board denials / ◆ for Governor reversals)
- ☐ **Prayer for Relief** (● for Board denials / \* for Governor reversals)
  - Remember to sign and date your Prayer for Relief
- ☐ **Arguments** (♣) (you can choose what order to put the arguments in)
- ☐ **List of Exhibits** (♠)
- ☐ **Exhibit cover pages** (♠CP) and **exhibits**

### Adding page numbers

Once everything is in order, you should put page numbers in the bottom right-hand corner of your **Statement of Facts**, **Prayer for Relief**, and **Arguments**. Page numbers can help the court see if any pages are missing from your habeas petition. (You don't need to write page numbers on your Form HC-001 because it already has page numbers.)

## II. Reviewing Your Habeas Petition

All of your documents are together. Now, you should review everything one more time from start to finish before mailing it to the court. Here are some things to check as you review your habeas petition one last time:

- ☐ Are all the pages in the correct order? Are any pages missing?
- ☐ Are there any spelling or grammar mistakes?
- ☐ Is your handwriting clear enough for the court to read?
- ☐ Did you include your completed and signed Form HC-001?
- ☐ Did you include all your exhibits?

## III. Mailing / Filing Your Habeas Petition

You can file your habeas petition by mailing it to the court. Generally, you should file your habeas petition in the superior court of the county where you were convicted and sentenced (*not* the county where you're currently incarcerated).<sup>86</sup> See **Attachment C: California Superior Court Mailing Addresses** for the court's mailing address.

There is no filing fee for habeas petitions in California.<sup>87</sup>

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<sup>86</sup> *In re Roberts* (2005) 36 Cal.4th 575, 593.

<sup>87</sup> Gov. Code, § 6101 ("No fee shall be charged in proceedings upon habeas corpus").

## IV. I Filed My Habeas Petition. Now What?

Congratulations on filing your habeas petition! Here are some things to do after you've mailed your petition to the court:

- Keep an eye out for your stamped cover page. If you mailed the court an extra Form HC-001 cover page (with a stamped envelope), the clerk should return it to you with your **case number** and **filing date** stamped on it. If you haven't received your cover page after a month, you or a loved one should write or call the court clerk and ask whether they received your habeas petition.

*Note:* Your **filing date** is the date when your habeas petition was officially received by the court. Your **case number** identifies your case in the court's system. Once you know your case number, you should include it on everything you send to the court going forward.

- Calculate the court's 60-day deadline. The court must rule on your habeas petition within 60 calendar days of your *filing date* (not the date that you mailed your petition).<sup>88</sup>
  - If no ruling: Submit a Notice and Request for Ruling. If the court hasn't ruled on your petition after 60 days, you can submit a Form HC-004 Notice and Request for Ruling.<sup>89</sup> There's a copy of the form at the end of this handbook (**Attachment D**). You should mail the court another copy of your habeas petition along with this form.
- Tell the court immediately if you transfer prisons. If you move prisons before the court has ruled on your habeas petition, you should write the court immediately. This will help make sure that the court sends its rulings to your correct address. Your letter should include your name, CDCR number, habeas petition case number, your new address, and the date you changed addresses. You can also fill out Form MC-040 Notice of Change of Address (which should be available in your law library) and mail that to the court.

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<sup>88</sup> California Rules of Court, rule 4.551(a)(5)(A).

<sup>89</sup> California Rules of Court, rule 4.551(a)(6).



## CHAPTER FIVE: FILING IN THE COURT OF APPEAL AFTER A SUPERIOR COURT DENIAL

Unfortunately, it's common for superior courts to deny habeas petitions. Even so, you might still feel sad, disappointed, confused, or angry at the court's decision. It's frustrating to feel like the court didn't see the injustice that you experienced. It hurts to be told that what happened to you was legal. It's okay and understandable if you feel any of those things. No matter what happened with your petition, you deserve to be proud of all the hard work and hope that you put into it.

You might be wondering what you can do after the superior court denies your habeas petition. Technically, you can't "appeal" the superior court's decision, but you *can* file a new habeas petition with the same arguments in the court of appeal.<sup>90</sup> The court of appeal will then decide whether to grant or deny your petition. This chapter explains how to file your petition in the court of appeal.

- **Section I** explains when you should file, what you should file, and where you should file your habeas petition.
- **Section II** explains what happens after you file your habeas petition in the court of appeal.
- **Section III** briefly describes your options in the California Supreme Court if the court of appeal denies your petition.

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<sup>90</sup> The government can appeal a superior court decision *granting* a habeas petition, but petitioners can't appeal a decision *denying* a habeas petition; instead, they must submit a new habeas petition. (*Robinson v. Lewis* (2020) 9 Cal.5th 883, 895 ["A new petition for a writ of habeas corpus differs from an appeal in important respects. The new petition can add to or attempt to bolster the claims made in the earlier petition. Moreover, unlike an appeal, a petition can be, and often is, denied without full briefing from the parties, oral argument, or opinion"].)

## I. How To File a Habeas Petition in the Court of Appeal

Filing a habeas petition in the court of appeal is usually less work than filing in the superior court. That’s because you’ve done most of the hard work already. Here are the steps you should take to file your petition in the court of appeal.

### When should I file in the court of appeal?

You should try to file your habeas petition in the court of appeal within **10 months** of the superior court denial.<sup>91</sup> If you take much longer than that, you should tell the court why you needed more time.

### What should I file?

Just like in the superior court, you must use *Form HC-001 – Petition for Writ of Habeas Corpus* to file a habeas petition in the court of appeal.<sup>92</sup> Most of your answers will be the same as what you wrote when you filed in the superior court. However, some things will be different, such as:

- ☐ On the form’s cover page, you should write the name and address of the court of appeal (*not* the superior court) that you’re filing in. The next section (**Where do I file?**) explains which court of appeal to file in.
- ☐ When the form asks if you’ve filed any other petitions regarding this issue,<sup>93</sup> you should say **Yes**. Then, answer the form’s additional questions based on your superior court habeas petition.

You should file everything in the court of appeal that you filed in the superior court, including your **Statement of Facts, Prayer for Relief, Arguments,**

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<sup>91</sup> *In re Burdan* (2008) 169 Cal.App.4th 18, 31 (“delay of 10 months for an unrepresented [incarcerated person] to file a petition for writ of habeas corpus in the Court of Appeal, after denial of a similar petition in the superior court” was not unreasonable). However, people who *are* represented by a lawyer should file their habeas petition in the court of appeal within **120 days** of the superior court denial. (See *Robinson v. Lewis* (2020) 9 Cal.5th 883, 901.)

<sup>92</sup> California Rules of Court, rule 8.380(a).

<sup>93</sup> Question 11 on the September 1, 2024 version of Form HC-001.



and **Exhibits**. You should also include a copy of the superior court's decision denying your petition.

Here's a list of everything you should mail to the court of appeal:

- ☐ **Letter to the Clerk of Court** (asking the court clerk to return the stamped cover page in the self-addressed envelope)
- ☐ **Stamped envelope** that's **addressed** to yourself
- ☐ Extra Form HC-001 **cover page** (for the court clerk to stamp and return to you)
- ☐ **Form HC-001** – *Petition for Writ of Habeas Corpus* (with your answers updated for the court of appeal)
- ☐ The documents that you filed in the superior court (**Statement of Facts, Prayer for Relief, Arguments, List of Exhibits / Exhibits**)
- ☐ Superior court **decision** denying your habeas petition

**REMINDER:** You should make and keep a copy of *everything* you send to the court, even if it's just a handwritten copy. The court probably won't return your documents to you, so it's important to keep your own copies for your records.

### **Where should I file?**

You should file your habeas petition in the court of appeal for the appellate district where the superior court that denied your petition is located. There are 6 appellate districts in California. Each district has its own court of appeal (1st District Court of Appeal, 2nd District Court of Appeal, etc.). Each court of appeal reviews cases from the superior courts in its district. The table on the next page tells you which court of appeal to file in based on which superior court denied your habeas petition.

<b>If you filed your habeas petition in this superior court:</b>	<b>You should file your new habeas petition in this court of appeal:</b>
<b>Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Napa, San Francisco, San Mateo, Solano, or Sonoma</b>	<u>1st District Court of Appeal</u> 350 McAllister Street San Francisco, CA 94102-7421
<b>Los Angeles</b>	<u>2nd District Court of Appeal</u> 300 S. Spring Street 2nd Floor, North Tower Los Angeles, CA 90013
<b>San Luis Obispo, Santa Barbara, or Ventura</b>	<u>2nd District Court of Appeal, Division 6</u> 200 East Santa Clara Street Ventura, CA 93001
<b>Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Glenn, Lassen, Modoc, Mono, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity, Yolo, or Yuba</b>	<u>3rd District Court of Appeal</u> 914 Capitol Mall, 4th Floor Sacramento, CA 95814
<b>Imperial or San Diego</b>	<u>4th District Court of Appeal, Division 1</u> 750 B Street, Suite 300 San Diego, California 92101
<b>Inyo, Riverside, or San Bernardino</b>	<u>4th District Court of Appeal, Division 2</u> 3389 12th Street Riverside, CA 92501
<b>Orange</b>	<u>4th District Court of Appeal, Division 3</u> 601 W. Santa Ana Blvd. Santa Ana, California 92701
<b>Fresno, Kern, Kings, Madera, Mariposa, Merced, Stanislaus, Tulare, or Tuolumne</b>	<u>5th District Court of Appeal</u> 2424 Cesar Chavez Blvd Fresno, California, 93721
<b>Monterey, San Benito, Santa Clara, or Santa Cruz</b>	<u>6th District Court of Appeal</u> 333 W. Santa Clara Street, Suite 1060 San Jose, CA 95113

## II. What Happens After I File My Habeas Petition in the Court of Appeal?

In many ways, the process in the court of appeal is similar to the superior court.<sup>94</sup> For example, the court of appeal can ask for informal briefing if it wants more information before making a decision about your habeas petition.<sup>95</sup> Additionally, if the court issues an Order to Show Cause, you'll be given a lawyer if you can't afford one.<sup>96</sup>

However, there are some differences. The two main differences between the court of appeal and the superior court are:

1. **No deadline for initial ruling:** The superior court had to rule on your habeas petition within 60 days of you filing it. By contrast, there's no deadline for the court of appeal to rule on your petition after you file it. This means you might wait months before getting an initial ruling.
2. **Oral argument:** Oral arguments are rare in the superior court. However, you might have an oral argument in the court of appeal if the court issues an Order to Show Cause.<sup>97</sup> The court will give you a lawyer and your lawyer will argue your case at oral argument.

## III. What Happens If the Court of Appeal Denies My Habeas Petition?

If the court of appeal denies your habeas petition, you can bring your case to the California Supreme Court. You can do this by filing a **petition for review** or by filing a **new habeas petition** with the same arguments in the Supreme Court.<sup>98</sup>

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<sup>94</sup> See **Chapter Two, Section II: Stages of a Habeas Petition.**

<sup>95</sup> California Rules of Court, rule 8.385(b).

<sup>96</sup> California Rules of Court, rules 8.385 and 8.386.

<sup>97</sup> California Rules of Court, rules 8.386(g) and 8.256.

<sup>98</sup> California Rules of Court, rules 8.380(a) and 8.500(a).

Filing a petition for review: *There are short timelines for filing a petition for review in the California Supreme Court.*<sup>99</sup> If the court of appeal “summarily denied” your habeas petition (denied it without issuing an Order to Show Cause), then you must file your petition for review within **10 days** of the court of appeal’s denial. If the court of appeal issued an Order to Show Cause before denying your petition, then you generally need to file your petition for review within **40 days** of the court’s denial (10 days after the decision becomes final).<sup>100</sup> If you file a petition for review, the California Supreme Court will have **90 days** to decide whether to review your case.<sup>101</sup>

Filing a new habeas petition: If you choose to file a new habeas petition in the California Supreme Court (rather than filing a petition for review), then you should aim to file it within **120 days** of the court of appeal’s denial.<sup>102</sup> The Supreme Court won’t have a deadline to rule on your new habeas petition, so you might wait months before getting a ruling.

For more information about filing a petition for review or habeas petition in the California Supreme Court, please see the Prison Law Office’s resource on state habeas petitions. You can find it on CDCR’s electronic tablets and kiosks, or you can request one by writing to Prison Law Office, General Delivery, San Quentin, CA 94964. People with internet access can find the handbook on the Prison Law Office website at [www.prisonlaw.com](http://www.prisonlaw.com).

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<sup>99</sup> California Rules of Court, rules 8.387(b)(1) and 8.500(e).

<sup>100</sup> California Rules of Court, rules 8.387(b) and 8.500(e).

<sup>101</sup> California Rules of Court, rule 8.512(b).

<sup>102</sup> *Robinson v. Lewis* (2020) 9 Cal.5th 883, 901 (“A new petition filed in a higher court within 120 days of the lower court’s denial will never be considered untimely”).



## ATTACHMENT A: GLOSSARY OF WORDS AND PHRASES

This table lists some words and phrases that you may come across in this handbook or during your court case. The table defines the words and phrases as they're used in the parole hearing context. Some of the definitions may be different in other contexts. Please write to our office if you'd like more information about anything in this table.

Word / Phrase	Definition
Accountability	Taking responsibility for the thoughts, feelings, and motivations that led you to commit harm.
Aggravating factor	Something about you or your case that the Board and/or Governor thinks increases your risk of committing a crime. Opposite of "mitigating factor." <i>Example:</i> Having a recent violent RVR is usually an "aggravating factor."
Board of Parole Hearings (BPH) / The Board	The California Board of Parole Hearings is an executive agency under the California Department of Corrections and Rehabilitation (CDCR). The Board holds parole suitability hearings for people seeking parole. The Board's commissioners can grant or deny parole at parole hearings.
California Supreme Court	The highest state court in California. The California Supreme Court has the power to review decisions made by California superior courts and courts of appeal.
Claim	A legal argument that your rights were violated in a specific way. <i>Example:</i> "The Board violated Petitioner's due process rights by denying parole without any evidence of dangerousness."

Word / Phrase	Definition
Comprehensive Risk Assessment (CRA)	A report written by a Board psychologist about your risk of future violence. The psychologist interviews you about topics like your social history, crime, time in prison, and release plans. The psychologist then rates your risk of violence on a scale from low to high. <i>You can write to UnCommon Law if you'd like more information about preparing for CRA interviews and challenging CRA reports.</i>
Court of Appeal	A court that reviews decisions made by county-level superior courts in California. There are 6 appellate districts in California. Each district has its own court of appeal (1st District Court of Appeal, 2nd District Court of Appeal, etc.). Each court of appeal reviews cases from the superior courts in its district. <i>Example:</i> The Los Angeles Superior Court is located in the 2nd appellate district. Therefore, the 2nd District Court of Appeal reviews decisions made by the Los Angeles Superior Court.
Denial / Traverse	A document that you file in court where you argue against what the Board/Governor said in its “return.”
Disciplinary infraction	A write-up for misconduct in prison. This includes counseling-only Rules Violation Reports (RVRs), administrative RVRs, and serious RVRs.

Word / Phrase	Definition
Elderly Parole Laws	A set of laws that gives some people an earlier parole hearing based on their current age and time incarcerated. The Board has to give special consideration to the parole candidate’s age, time served, and reduced physical condition. (See <i>Plata/Coleman v. Brown</i> (E.D. Cal./N.D. Cal.) No. 2:90-cv-0520; Pen. Code, § 3055.)
<i>En banc</i> review	When the full Board (all the commissioners) reviews a parole decision. This happens at the Board’s monthly Executive Board Meeting.
Evidence (as in, “evidence of dangerousness”)	Proof of something. You can only be denied parole if there’s evidence that you’re currently dangerous. This means the Board/Governor needs to show proof that you’re dangerous. The Board/Governor’s evidence could come from sources such as your prison record, parole hearing testimony, documents you wrote for your parole hearing, or even statements other people have made about you.
Exhibit	A document you submit to help prove the arguments in your habeas petition. Your exhibits provide “evidence” that you aren’t currently dangerous. <i>Example:</i> Submitting AA certificates as exhibits to prove that you’ve taken groups related to substance use and therefore you aren’t currently dangerous.

Word / Phrase	Definition
File (as in, “file a habeas petition”)	To file a habeas petition means to officially submit the petition to the court. For people in prison, this usually means mailing their petition to the court.
Governor	The Governor is the head of the executive branch of California’s state government. The Governor can review any parole grant or denial by the Board. The Governor can reverse parole grants for people convicted of murder.
Habeas petition / Petition for writ of habeas corpus	Pronounced “HAY-bee-uhs.” A habeas petition is a way for incarcerated people to challenge their imprisonment in court.
In pro per / Pro se	If you’re “in pro per” or “pro se,” it means you’re representing yourself in court without a lawyer. California courts tend to use “pro per,” but other parts of the country usually use the term “pro se.”
Insight	Your understanding of why you committed the crime and caused harm.
Intimate Partner Battering Law	A law that requires the Board to give great weight to evidence of intimate partner battering (IPB) for some parole candidates who were convicted before August 29, 1996. (See Pen. Code, § 4801, subd. (b)(1).)
Life crime(s)	The crime or crimes that resulted in your life sentence. Also known as the commitment offense or conviction.



Word / Phrase	Definition
Mitigating factor	Something about you or your case that decreases your risk of committing a crime. Opposite of “aggravating factor.” <i>Example:</i> Having no arrests or convictions besides the life crime is a “mitigating factor.”
Order to Show Cause	An Order to Show Cause is a court order telling the Board/Governor to explain why you’re still in prison. It’s basically the court’s way of saying, “From what I’ve read, this parole denial might have been illegal. I order the Board/Governor to explain why I shouldn’t grant this habeas petition right now.”
Parole candidate	Someone being considered for parole by the Board/Governor.
Penal Code / Pen. Code (as in “Pen. Code, § 1473”)	The California Penal Code is a collection of most of the criminal laws in California. The number after the “§” (section) symbol identifies the section of the Penal Code that’s being cited.
Petitioner	The person who is filing the habeas petition challenging their imprisonment.
Post-conviction record	All of your programming, conduct, education, and work history while in prison.

Word / Phrase	Definition
Postpone (as in, “postpone a parole hearing”)	Postponing a parole hearing is when your hearing is rescheduled because of something unexpected that needs to be resolved before your hearing. <i>Examples:</i> One of the commissioners is sick; the Board didn’t disclose required documents; you’re in the middle of challenging an RVR that will impact your parole suitability. <i>You can write to UnCommon Law for more information about postponing parole hearings.</i>
<i>Prima facie</i> case (as in, “make a <i>prima facie</i> case”)	If you’ve made a <i>prima facie</i> case, that means you’ve presented enough evidence for the court to think that your parole denial might have been illegal. The court will issue an Order to Show Cause and give the Board/Governor a chance to respond. The court will also give you a lawyer at this time if you can’t afford one.
Record (as in, “parole hearing record”)	Documents that show what happened during an event. Your “parole hearing record” refers to the documents that the Board considered during your hearing, as well as the transcript of the hearing itself. These documents help tell the story of what happened during your hearing. You can use documents from your parole hearing record as “evidence” to support your arguments in a habeas petition.
Release / Parole plans	Your plans for life after prison. This can include housing, jobs, and your support network. <i>You can write to UnCommon Law for more information about release plans.</i>

Word / Phrase	Definition
Remorse	Sorrow and regret for the harm you caused and feeling compelled to make things as right as you can. <i>You can write to UnCommon Law for more information about demonstrating remorse in your parole hearing.</i>
Respondent	In a habeas petition, the respondent is the person and/or agency that’s keeping you in custody. <i>Examples:</i> If the Board denied you parole, then the respondents are the Board and the warden of the prison you’re in. If the Governor reversed your parole grant, then the respondents are the Governor and the warden of the prison you’re in.
Return (as in, “the Board’s return”)	A document that the Board/Governor files after the court issues an Order to Show Cause. In the return, the Board/Governor usually argues why the court should deny your habeas petition.
Social history	The experiences and events in your life leading up to the life crime, including your childhood and young adulthood. A person’s social history may include traumatic experiences, as well as issues in romantic or family relationships.
Static / Unchanging / Immutable factors	Facts about you or your case that are in the past and that you can’t change. <i>Examples:</i> The facts of the crime; childhood experiences; pre-conviction criminal record.

Word / Phrase	Definition
Stipulate (as in, “stipulate to being unsuitable”)	When you admit that you’re <i>unsuitable</i> for parole and ask the Board to put off your hearing for another 3, 5, 7, 10 or 15 years. This is different from “waiving” or “postponing” a parole hearing. <i>You can write to UnCommon Law for more information about stipulating.</i>
Superior court	A trial court in California. Each county has its own superior court ( <i>example</i> : Los Angeles Superior Court). You generally file habeas petitions in the superior court first, before going to the court of appeal or supreme court.
To issue (as in, “issue an Order to Show Cause”)	When a court makes an official ruling or order in a case. For example, when a court issues an Order to Show Cause, the court is officially ordering the Board/Governor to explain why your habeas petition shouldn’t be granted.
Vacate (as in, “vacate a parole denial”)	To cancel or overturn. For example, if a court vacates a parole denial, then the denial will no longer be in effect, as if the hearing never happened. For more information about what happens when a court vacates a parole denial or governor reversal, see <b>Chapter Two, Section III: What Happens After the Court Decides My Habeas Petition?</b>

Word / Phrase	Definition
Waive (as in, “waive a parole hearing”)	Waiving a hearing is when you ask to put off your parole hearing for 1 to 5 years. You <i>don’t</i> have to admit that you’re unsuitable for parole when you waive a hearing, unlike when you stipulate. You must request to waive your hearing at least 45 calendar days before your hearing. <i>You can write to UnCommon Law if you’d like more information about waiving parole hearings.</i>
Youth Parole Law	A law that gives some people an earlier parole hearing based on their young age when they committed the life crime. Under the law, the Board must give great weight to the diminished culpability of youth, the hallmark features of youth, and the candidate’s growth and maturity since the crime. (See Pen. Code, § 4801, subd. (c); Pen. Code, § 3051.)



## ATTACHMENT B: RELEVANT LAWS

This attachment lists some of the main laws and cases related to parole denials and reversals in California. The template arguments in **Chapter Three** cite many of the laws in this attachment. Therefore, if you use the template arguments for your habeas petition, you do not need to read this attachment. This attachment is meant for people who were denied parole for reasons that are *not* covered by the template arguments, or who want a broader understanding of the laws in this area.

This attachment can give you a starting place for your research. However, it doesn't go into depth about the laws or cases listed. The Prison Law Office has a resource called *Challenging a Board of Parole Hearings' (BPH) Decision Denying Parole or Rescinding a Parole Grant or a Governor's Decision Reversing a Parole Grant* that discusses many of these laws in more detail. You can find it on CDCR's electronic tablets and kiosks, or you can request one by writing to Prison Law Office, General Delivery, San Quentin, CA 94964. People with internet access can find the handbook on the Prison Law Office website at [www.prisonlaw.com](http://www.prisonlaw.com).

## I. Types of Laws and Where to Find Them

California has many laws and rules about granting and denying parole. Most of them fall into one of these four types:

- **Constitutional laws:** Laws written in the state or federal constitution. *Example citation:* Cal. Const., art. I, § 7.
- **Statutes:** Laws created by California’s Legislature. Statutes are organized into different “codes,” such as the Penal Code. *Example citation:* Pen. Code, § 3041.
- **Regulations:** Rules created by state agencies, like CDCR or the Board of Parole Hearings. You may have heard of “Title 15.” That refers to Title 15 of the California Code of Regulations, which has rules for CDCR and the Board. *Example citation:* Cal. Code Regs., tit. 15, § 2402.
- **Case law:** Laws created by courts and judges. Courts have to decide how constitutional laws, statutes, and regulations apply to specific people and cases. Courts write their interpretations of the laws in “decisions” or “opinions.” When those decisions are published, they become “case law.” *Example citation:* *In re Lawrence* (2008) 44 Cal.4th 1181.

Prison law libraries should have California’s constitution, case law, regulations, and statutes.<sup>103</sup> You should also be able to find most of these laws on your tablets. People outside of prison can read California’s constitution and statutes on the Legislature’s website ([www.leginfo.ca.gov](http://www.leginfo.ca.gov)); the regulations on the California Code of Regulations website (<https://govt.westlaw.com/calregs>); and most case law on Google Scholar (<https://scholar.google.com/>). They can also access these resources in print by going to a county law library (<https://www.mylawlibrary.org/law-libraries.htm>).

For more detailed information about the legal system and legal research, see the Prison Law Office’s resource called *California Prison and Parole Law Handbook: Legal Research, Writing, and Strategies*.

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<sup>103</sup> Cal. Code Regs., tit. 15, § 3124, subd. (a).

## **II. Laws and Cases Related to Parole Decisions**

This section lists laws and cases that often come up in habeas petitions challenging parole decisions. We've noted particularly relevant points and quotes from each, but we encourage you to read the full laws and cases for yourself.

### **Due process rights in parole decisions**

- Cal. Const., art. I, § 7 and § 15: People have a right to due process.
- *In re Minnis* (1972) 7 Cal.3d 639: Parole “cannot be withheld unless by means consonant with due process.”
- *In re Rosenkrantz* (2002) 29 Cal.4th 616: Parole candidates have a protected liberty interest in parole decisions, and their right to due process limits the Board’s broad discretion.

### **How parole suitability decisions are made**

#### What information is considered

- Cal. Code Regs., tit. 15, § 2281, subd. (b) and § 2402, subd. (b): The Board must consider all relevant and reliable information.
- Cal. Code Regs., tit. 15, § 2247: Parole candidates have a right to review all nonconfidential documents in their central file and submit a written response to them before the parole hearing. The Board can only consider information that’s been made available to the parole candidate, unless the information is deemed confidential under § 2235.
- Cal. Code Regs., tit. 15, § 2235: The Board can make parole decisions based on confidential information if the Board finds the confidential information reliable. The Board must document its finding that the confidential information is reliable. If confidential information affected the parole decision, the Board must tell the parole candidate what it relied on.
- *In re Olson* (1974) 37 Cal.App.3d 783: The Board/CDCR must inform the parole candidate or their lawyer about the general nature of the confidential information and the reason why it can’t be disclosed.



The main question is the parole candidate's current risk to public safety

- Pen. Code, § 3041, subd. (b)(1): The Board shall grant parole unless public safety requires longer incarceration.
- Cal. Code Regs., tit. 15, § 2402, subd. (a) and § 2281, subd. (a): A parole candidate will be denied parole if the Board finds that the candidate will “pose an unreasonable risk of danger to society if released from prison.”
- *In re Lawrence* (2008) 44 Cal.4th 1181: The “circumstances of the commitment offense (or any of the other factors related to unsuitability) establish unsuitability if, and only if, those circumstances are probative of the determination that a prisoner remains a danger to the public. It is not the existence or nonexistence of suitability or unsuitability factors that forms the crux of the parole decision; the significant circumstance is how those factors interrelate to support a conclusion of current dangerousness to the public.”

Factors that weigh in favor of parole suitability vs. factors that weigh against suitability

- Cal. Code Regs., tit. 15, § 2281, subd. (d) and § 2402, subd. (d): Circumstances tending to show suitability for parole (no juvenile record; stable social history; signs of remorse; commitment offense due to significant stress; commitment offense due to intimate partner violence/battering; lack of criminal history; age; realistic release plans; positive behavior in prison).
- Cal. Code Regs., tit. 15, § 2281, subd. (c) and § 2402, subd. (c): Circumstances tending to show unsuitability for parole (especially cruel commitment offense; previous violence; unstable social history; previous “sadistic” sexual assault; lengthy history of severe mental problems related to the commitment offense; serious misconduct in prison or jail).

### Special parole considerations

#### ***Youth parole***

- Pen. Code, § 4801, subd. (c): For parole candidates who committed the commitment offense when they were under 26 years old, the Board must give “great weight to the diminished culpability of youth as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity.”
- Pen. Code, § 3051: Describes who is eligible for youth parole consideration. Board psychologists must consider the youth parole factors in psychological risk assessments.
- Cal. Code Regs., tit. 15, § 2446: Explains what specific factors to consider regarding the diminished culpability of youth, hallmark features of youth, and any subsequent growth and increased maturity of the parole candidate.
- Cal. Code Regs., tit. 15, § 2445, subd. (d): If the Board denies parole, the Board must “articulate in its decision the youth offender factors present and how such factors are outweighed by relevant and reliable evidence that the youth offender remains a current, unreasonable risk to public safety.”
- *In re Poole* (2018) 24 Cal.App.5th 965: The Board/Governor must give great weight to the youth parole factors — not just pay them lip service.
- *In re Perez* (2016) 7 Cal.App.5th 65: The Board/Governor must take the requirement to consider the youth parole factors seriously. Showing “indifference” to the youth parole factors does “not comply with federal or California case law or California statutory law.”

### ***Elderly parole***

- Pen. Code, § 3055: People are eligible for statutory elderly parole consideration if they're at least 50 years old and have served at least 20 years on their sentence, with certain exclusions. The Board must give "special consideration to whether age, time served, and diminished physical condition, if any, have reduced the elderly [parole candidate]'s risk for future violence."
- *Plata/Coleman v. Brown* (E.D. Cal./N.D. Cal.) No. 2:90-cv-0520: Federal class action where the court ordered California to create a parole consideration process for elderly parole candidates. People are eligible for this "court-ordered" elderly parole program if they're at least 60 years old and have served at least 25 years on their sentence. People who are excluded from *statutory* elderly parole consideration may still be eligible for this *court-ordered* elderly parole consideration.
- Cal. Code Regs., tit. 15, § 2449.43: Explains what factors to consider regarding an elderly parole candidate's age, time served, and physical condition.
- *People v. Contreras* (2018) 4 Cal.5th 349: The Elderly Parole Program was created "to curb rising medical costs of the geriatric [incarcerated] population and to provide a 'compassionate' release for those elderly individuals."
- *In re Shelton* (2020) 53 Cal.App.5th 650: The Board must address how an elderly parole candidate's physical condition relates to their risk for violence.

### ***Survivors of intimate partner battering***

- Pen. Code, § 4801, subd. (b)(1): The Board must "give great weight to any information or evidence that, at the time of the commission of the crime, the prisoner had experienced intimate partner battering, but was convicted of an offense that occurred prior to August 29, 1996."
- Pen. Code, § 4801, subd. (a): The Board may consider "evidence of the nature and effects of physical, emotional, or mental abuse upon the beliefs, perceptions, or behavior of victims of domestic violence if it appears the criminal behavior was the result of that victimization."
- Pen. Code, § 4801, subd. (b)(3): The fact that a parole candidate presents evidence of intimate partner battering can't be used to prove they lack insight.

## The Governor's power to review the Board's decisions

### Governor's review for all parole candidates

- Pen. Code, § 3041.1: The Governor can ask the Board to review any parole decision before the candidate has been released from prison. If the Governor requests review, then a majority of commissioners on the Board must vote in favor of parole for the candidate to be granted parole.

### Governor's review for parole candidates convicted of murder

- Cal. Const., art. V, § 8(b): The Governor has 30 days to review parole decisions for people convicted of murder. The Governor can affirm, modify, or reverse the Board's decision. The Governor must consider the same factors as the Board.
- Pen. Code, § 3041.2: The Governor must review the materials provided by the Board. If the Governor reverses or modifies the decision, the Governor must send the parole candidate a written statement of reasons.

## Judicial review of parole decisions

- *In re Rosenkrantz* (2002) 29 Cal.4th 616: **A court can't overturn a parole denial if some evidence supports the denial — even if far more evidence supports granting parole. The Board/Governor (not the court) decides how to weigh the evidence.** [“Due process of law requires that this decision be supported by some evidence in the record. Only a modicum of evidence is required. Resolution of any conflicts in the evidence and the weight to be given the evidence are matters within the authority of the Governor. As with the discretion exercised by the Board in making its decision, the precise manner in which the specified factors relevant to parole suitability are considered and balanced lies within the discretion of the Governor, but the decision must reflect an individualized consideration of the specified criteria and cannot be arbitrary or capricious. It is irrelevant that a court might determine that evidence in the record tending to establish suitability for parole far outweighs evidence demonstrating unsuitability for parole.”]

- *In re Lawrence* (2008) 44 Cal.4th 1181: **There has to be some evidence that the candidate is *dangerous*.** “[T]he relevant inquiry is whether some evidence supports the *decision* of the Board or the Governor that the [parole candidate] constitutes a current threat to public safety, and not merely whether some evidence confirms the existence of certain factual findings.”]
- *In re Shaputis* (2011) 53 Cal.4th 192: **A court can only overturn a parole denial if *all* the evidence supports a parole grant and no evidence supports a denial.** [“Only when the evidence reflecting the [parole candidate]’s present risk to public safety leads to but one conclusion may a court overturn a contrary decision by the Board or the Governor.”]
- *In re Sanchez* (2012) 209 Cal.App.4th 962: **The Board/Governor (not the court) decides whether a parole candidate’s testimony is credible and/or plausible.** [“[C]redibility and therefore plausibility is for the Board to determine. Thus, when ‘the parole authority declines to give credence to certain evidence, a reviewing court may not interfere unless that determination lacks any rational basis and is merely arbitrary.’”]

## What happens after a court overturns a parole decision

- *In re Prather* (2010) 50 Cal.4th 238: **If a court overturns a parole denial by the Board, the candidate gets a new hearing where the Board can’t deny parole based on evidence considered at the previous hearing.** [“In conducting a suitability hearing after a court’s grant of habeas corpus relief, the Board is bound by the court’s findings and conclusions regarding the evidence in the record and, in particular, by the court’s conclusion that no evidence in the record before the court supports the Board’s determination that the prisoner is unsuitable for parole.”]
- *In re McDonald* (2010) 189 Cal.App.4th 1008: **If a court overturns a parole reversal by the Governor, the Governor cannot review the grant again.** [“Remand to the Governor after his determination is found lacking in some evidence of current dangerousness is inconsistent with this requirement and is not required by *Prather*.”]

- *In re Lira* (2014) 58 Cal.4th 573: **When a court overturns a Governor parole reversal and reinstates the parole grant, the Board can still rescind the grant based on new information.** “[W]hen a court determines that a gubernatorial reversal of a parole decision is unsupported, the remedy is not an order for the [parole candidate]’s immediate release; rather, the court vacates the Governor’s reversal, reinstates the Board’s grant of parole, and directs the Board to conduct its usual proceedings for a release on parole. This allows the Board to account for any recent developments reflecting on the [candidate]’s suitability for parole, and to rescind its grant if appropriate.”]

### III. Specific Reasons for Denying Parole

This section lists common reasons why the Board and Governor deny parole, with a few cases that discuss each reason.

#### Static/Unchanging factors

- *In re Lawrence* (2008) 44 Cal.4th 1181: **The Board/Governor can only deny parole based on static factors if those factors are related to the parole candidate’s *current* dangerousness.** “[T]he Board or the Governor may base a denial-of-parole decision upon the circumstances of the offense, or upon other immutable facts such as an [incarcerated person]’s criminal history, but some evidence will support such reliance *only* if those facts support the ultimate conclusion that an [incarcerated person] *continues* to pose an unreasonable risk to public safety.”]
- *In re Gomez* (2010) 190 Cal.App.4th 1291: **It may be unfair to deny parole based on static factors that the candidate can’t change.** “[A petitioner cannot change the nature of the commitment offense or a prior record. Reliance on such immutable factors may be unfair and contrary to the rehabilitative goals of our penal system and the requirements of due process.”]

#### The nature of the crime

- *In re Lawrence* (2008) 44 Cal.4th 1181: **A parole candidate can’t be denied parole based on the nature of the crime unless something else in their record shows they’re still dangerous today.** “[In some cases, such as those in which the [parole candidate] has failed to make efforts toward rehabilitation,

has continued to engage in criminal conduct postincarceration, or has shown a lack of insight or remorse, the aggravated circumstances of the commitment offense may well continue to provide ‘some evidence’ of current dangerousness even decades after commission of the offense.”]

- *In re Twinn* (2010) 190 Cal.App.4th 447: **The nature of the crime might not be evidence of dangerousness if the parole candidate has an otherwise positive record** (e.g., minimal juvenile record, self-help groups in prison, vocational and education programs, marketable skills, therapy, no recent rules violations, remorse, insight, accountability, realistic parole plans, outside community support).
- *In re Elkins* (2006) 144 Cal.App.4th 475: **The nature of the crime is less reliable evidence of dangerousness for candidates who committed the crime as young people and have been in prison for decades.** [“The reliability of the facts of the crime as a predictor for [Petitioner’s] dangerousness was diminished further by his young age of 18, just barely an adult. ‘The susceptibility of juveniles to immature and irresponsible behavior means “their irresponsible conduct is not as morally reprehensible as that of an adult.” [Citation.]’ . . . By comparison, Elkins was 19 years old when he offended and, in these proceedings, had served over 25 years and been denied parole until his 10th subsequent Board hearing.”]
- *In re Shelton* (2020) 53 Cal.App.5th 650: **The nature of the crime might not be reliable evidence of dangerousness for parole candidates who committed the crime under abnormally stressful circumstances.** [“To begin with, the constellation of factors at play at the time of the life offense were so unique that it is difficult to imagine what similar circumstances might occur at this point in Shelton’s life.”]

### Criminal history

- *In re Smith* (2003) 109 Cal.App.4th 489: **The parole candidate’s history of nonviolent, theft-related crimes was not enough to deny parole.**
- *In re Aguilar* (2008) 168 Cal.App.4th 1479: **The parole candidate’s decades-old criminal convictions for battery, burglary, marijuana possession, and DUIs were not enough to deny parole.**

### Unstable social history

- *In re Shippman* (2010) 185 Cal.App.4th 446: **A parole candidate can be denied parole based on their unstable social history** if they have “not yet gained insight into or taken full responsibility for [their] irrational need to control the love and affection of others.”
- *In re Roderick* (2007) 154 Cal.App.4th 242: **A parole candidate’s criminal history or lack of relationship with their parents doesn’t show that they have an unstable social history.** [“[T]he Panel cited no facts or circumstances to support its premise that Roderick had an unstable *social* history (as distinguished from his criminal history) and we see no evidence that would bear it out.” / “The record shows an *absence* of any relationship with his natural parents, not any unstable or tumultuous relationships.”]
- *In re Denham* (2012) 211 Cal.App.4th 702: **A parole candidate’s history of selling drugs doesn’t show that they have an unstable social history.** [“Denham’s involvement in selling drugs does not address his social history as that factor is defined in the regulations. An ‘unstable social history’ is defined as a situation where ‘[t]he prisoner has a history of unstable or tumultuous relationships with others.’”]

### Substance use

- *In re Smith* (2003) 114 Cal.App.4th 343: **A parole candidate can’t be denied parole based on their past substance use without any evidence that they will relapse and return to violence.** [“Indeed, if Smith’s past use of drugs did invariably establish his unsuitability, then the Governor could deny parole for the rest of Smith’s life based on this immutable factor, without regard to or consideration of subsequent circumstances and evidence indicating that he has no current desire for drugs and that there is little current likelihood of drug relapse, let alone a return to violent conduct as a result of it.”]
- *In re Morganti* (2012) 204 Cal.App.4th 904: **The mere risk of relapse isn’t enough to deny parole.** [“The risk a former drug or alcohol abuser will relapse, which can never be entirely eliminated, cannot of itself warrant the denial of parole, because if it did the mere fact an [incarcerated person] was a former



substance abuser would ‘eternally provide adequate support for a decision that [he] is unsuitable for parole.’ [Citation.] This cannot be the case.”]

- *In re Denham* (2012) 211 Cal.App.4th 702: **The parole candidate’s history of drug dealing wasn’t enough to deny parole given his positive record in prison.** [“[G]iven Denham’s lack of any substance abuse history since 1986, his long-standing participation in 12–step programs, and his development of prosocial vocational skills, the Board must explain how his preincarceration history as a drug dealer predicts his current dangerousness.”]

### Prison programming

- *In re Rodriguez* (2011) 193 Cal.App.4th 85: **Parole candidates aren’t required to take a specific amount of programming.** [“We find nothing in the governing regulations that require any minimum quantity of rehabilitative programming. More importantly, the significance of rehabilitative programming comes into play only when *after years of such programming* a prisoner is unable to gain insight into his antisocial behavior *despite* those years of therapy and rehabilitative programming.”]
- *In re Jackson* (2011) 193 Cal.App.4th 1376: **The Board/Governor can’t deny parole just because the parole candidate might benefit from more self-help programming.** [“Merely because Jackson would benefit from additional self-help programs does not mean that Jackson currently poses a danger to society if he is released from prison. Many people in and out of prison could benefit from self-help programs; that does not mean such people are necessarily likely to commit violent crimes. Jackson’s purported failure to attend sufficient self-help programs does not constitute some evidence that he is currently dangerous.”]
- *In re Morganti* (2012) 204 Cal.App.4th 904: **The Board couldn’t deny parole based on deficient programming when there weren’t other options available.** [“If the quality of the rehabilitative programs Morganti participated in were deficient, they were the only ones made available to him by the state. So to deny him parole on that basis is, frankly, outrageous.”]

### Prison disciplinary record

- *In re Hunter* (2012) 205 Cal.App.4th 1529: **The Board/Governor can only deny parole based on prison misconduct if the misconduct shows that the parole candidate is currently dangerous.** [“[P]rison discipline, like any other parole unsuitability factor, ‘supports a denial of parole only if it is rationally indicative of the [parole candidate]’s current dangerousness.’ [Citation.] Not every breach of prison rules provides rational support for a finding of unsuitability.”]
- *In re Reed* (2009) 171 Cal.App.4th 1071: **Minor misconduct might be enough to deny parole if it suggests that the candidate would violate laws and parole conditions.** [“Does petitioner’s inability to follow an express direction to comply with the rules of the institution provide some current evidence that, when released, petitioner will be unable to follow society’s laws? It does. Moreover, petitioner’s failure to comply provides evidence of a predilection to ‘relax[ ] the rules myself,’ undermining confidence in his ability to follow the reasonable directions of his parole agent. . . . [F]or a life prisoner on parole, the failure to comply with the reasonable controls imposed by the parole agent is an antisocial act, even if it does not constitute a criminal offense.”]
- *In re Perez* (2016) 7 Cal.App.5th 65: **A recent 115 might not be enough to deny parole if the candidate doesn’t have a long disciplinary record.** [“[A]lthough petitioner had been issued a CDC-115 in 2012, following his prior parole hearing in 2011, at which he was directed to remain discipline free . . . petitioner does not have an extensive history of rules violations.”]
- *In re Rogowski* (2025) 112 Cal.App.5th 8: **A candidate’s decision to stay in an area of conflict and their failure to take responsibility for their actions might support a parole denial.** [“Rogowski remained in areas of conflict rather than extricate himself, blamed others for the altercations, and provided inconsistent accounts of what occurred. This is some evidence Rogowski continues to lack awareness of dangerous or high-risk situations, placing him at risk for future violence. Rogowski’s response to the incidents also reveals a concerning pattern of dishonesty and avoidance of accountability, traits that are relevant to recidivism because they tend to show a belief that one’s wrongdoing will not be exposed and punished.”]

## Insight

- *In re Shaputis* (2011) 53 Cal.4th 192: **A parole candidate can be denied parole if they lack insight into why they committed past crimes.** [The “presence or absence of insight is a significant factor in determining whether there is a ‘rational nexus’ between the [parole candidate]’s dangerous past behavior and the threat the [candidate] currently poses to public safety.”]
- *In re Shaputis* (2008) 44 Cal.4th 1241: **Parole candidates can’t be required to express their insight in a particular way.** [“[E]xpressions of insight and remorse will vary from prisoner to prisoner and that there is no special formula for a prisoner to articulate in order to communicate that he or she has gained insight into, and formed a commitment to ending, a previous pattern of violent behavior.”]
- *In re Rodriguez* (2011) 193 Cal.App.4th 85: **A parole candidate’s lack of insight only supports a parole denial if their incomplete insight makes them dangerous.** [“While it is undoubtedly true that we could all gain better insight into our actions, again, missing from the Governor’s decision is how this cited deficiency constitutes a basis for determining that currently Rodriguez would present an unreasonable risk of danger to the public if released.”]
- *In re Ryner* (2011) 196 Cal.App.4th 533: **The Board/Governor can’t refuse to accept evidence of a parole candidate’s insight.** [“[T]here are no material factual discrepancies between the evidentiary record and Ryner’s own account of his conduct and its causes. It appears that the ‘lack of insight’ conclusion by the Governor is equivalent to a mere refusal to accept evidence that Ryner has acknowledged the material aspects of his conduct and offense, shown an understanding of its causes, and demonstrated remorse.”]
- *In re Casey* (2023) 95 Cal.App.5th 1265: **The Board/Governor can’t ignore evidence of insight, but they can find that the evidence isn’t “convincing.”** [“The dissent points to a 46 page statement made by Casey, 10 pages of which discussed the factors that led Casey to participate in murdering Pahler. [¶] But the dissent fails to point to anywhere in the record that shows that the Governor ignored Casey’s statement, or for that matter, ignored any relevant evidence. The Governor simply did not find such evidence convincing.”]

- *In re Morganti* (2012) 204 Cal.App.4th 904: **A lack of insight doesn't always support a parole denial, especially if the candidate's age and health issues make them safe to release.** [“[L]ack of insight is not *necessarily* indicative of present dangerousness, as is ‘most obviously the case when an [incarcerated person], due to advanced age and infirmity, is no longer capable of being dangerous, *no matter how little insight he has into previous criminal behavior.*’”]
- *In re Shelton* (2020) 53 Cal.App.5th 650: **Some parole candidates may never have full insight into the crime due to cognitive conditions; the Board must consider whether the candidate's incomplete insight makes them currently dangerous under their specific circumstances.** [“Shelton's neurocognitive disorder made it unlikely he would ever be able to ‘give a coherent narrative about his motivations at the time of the crime,’ the disorder was progressive and his symptoms likely to worsen with age, his lack of insight had not led to violence during his incarceration, and it was likely his risk of violence in the community could be managed without full insight into the life offense as long as he had insight into the factors that would be most likely to lead to violence.”]
- *In re Rogowski* (2025) 112 Cal.App.5th 8: **In some cases, a parole candidate may be denied parole for lacking insight, even if their ability to demonstrate insight seems unrealistic.** [“When an [incarcerated person] has committed extremely violent crimes for reasons that he cannot explain . . . it is reasonable to conclude that the [incarcerated person] poses a public safety risk and to deny parole on that basis. Denying parole to such an [incarcerated person] is appropriate even if requiring him to demonstrate insight into the crimes appears unrealistic.”]

### Accountability and remorse

- *In re Shaputis* (2008) 44 Cal.4th 1241: **Parole candidates can't be required to express their remorse in a particular way.** [“[E]xpressions of insight and remorse will vary from prisoner to prisoner and that there is no special formula for a prisoner to articulate in order to communicate that he or she has gained insight into, and formed a commitment to ending, a previous pattern of violent behavior.”]

- *In re Lee* (2006) 143 Cal.App.4th 1400: **It doesn't matter how long a parole candidate has accepted responsibility or shown remorse for the crime, so long as it is genuine.** ["So long as Lee genuinely accepts responsibility, it does not matter how longstanding or recent it is. As Justice Felix Frankfurter observed, 'Wisdom too often never comes, and so one ought not to reject it merely because it comes late.' [Citation.] The same can be said about responsibility and remorse. Belated claims of remorse may legitimately cause doubt about the convert's sincerity. But, as the Governor challenges only the timing, not the genuineness, of Lee's remorse, Lee's lengthy journey to assuming full responsibility is no evidence that he continues to pose an unreasonable risk to public safety."]
- *In re Elkins* (2006) 144 Cal.App.4th 475: **The Board/Governor can't require a parole candidate to show accountability for a specific period of time.** ["There is no minimum time requirement. Rather, acceptance of responsibility works in favor of release '[no] matter how longstanding or recent it is,' so long as the [parole candidate] 'genuinely accepts responsibility....'"]
- *In re Barker* (2007) 151 Cal.App.4th 346: **The Board/Governor can't require a parole candidate to maintain rehabilitative gains for a longer period of time.** ["None of the suitability factors require that a prisoner's gains be maintained 'over an extended period of time,' as the Board's decision states."]

### Innocence claims

- Pen. Code, § 5011, subd. (b): "The Board of Prison Terms **shall not require, when setting parole dates, an admission of guilt** to any crime for which an [incarcerated person] was committed."
- Cal. Code Regs., tit. 15, § 2236: Parole candidates **can't be required to admit guilt**. Additionally, parole candidates can "**refuse to discuss the facts of the crime** in which instance a decision shall be made based on the other information available and the refusal shall not be held against the prisoner."
- *In re Perez* (2016) 7 Cal.App.5th 65: **Neither the Board, Board's psychologists, nor the Governor can require a parole candidate to admit guilt or discuss the life crime.** ["[W]here, as here, the prisoner has consistently and for some time maintained his innocence of the life offense, the party

evaluating his suitability for release—be it a psychologist or psychiatrist, a Board panel, or the Governor—must tread more cautiously; above all, the evaluator must assiduously refrain from readjudicating the life offense.

[Citation.] The evaluator must also be sensitive to the intimidating nature of a request that a life prisoner, particularly one who claims innocence, waive the right to refuse to discuss or admit guilt of the life offense, since the request is likely to be seen as a condition of release from prison; which is what section 5011 and section 2236 of the Board’s regulations were designed to prevent.”]

- *In re Shaputis* (2011) 53 Cal.4th 192: **A parole candidate can be denied parole if their innocence claim is implausible.** [“[A]n *implausible* denial of guilt may support a finding of current dangerousness, without in any sense requiring the [parole candidate] to admit guilt as a condition of parole. In such a case it is not the failure to admit guilt that reflects a lack of insight, but the fact that the denial is factually unsupported or otherwise lacking in credibility.”]
- *In re Swanigan* (2015) 240 Cal.App.4th 1: **An innocence claim is plausible if it is physically possible, doesn’t strain credulity, and is consistent with the physical evidence.** [“Swanigan’s case is not one in which his claim of innocence is physically impossible or strains credulity, or even is inconsistent with the evidence presented at trial. No physical evidence tied Swanigan to the murder.”]
- *In re Jackson* (2011) 193 Cal.App.4th 1376: **An innocence claim may be plausible even if there’s substantial evidence of guilt.** [“While there was certainly substantial evidence to support the trial court’s finding that Jackson murdered Wade, Jackson’s denial of that allegation is not necessarily inconsistent with the evidence.”]
- *In re Busch* (2016) 246 Cal.App.4th 953: **An innocence claim may be implausible if it’s inconsistent with the evidence.** [“In this case, Busch did not simply deny guilt. He provided a version of events and a theory of injury that . . . is entirely implausible based upon the evidence.”]

### Different version of the crime

- *In re Twinn* (2010) 190 Cal.App.4th 447: **The Board/Governor can't require a parole candidate to agree with the official version of the crime.** [“[A]n [incarcerated person] need not agree or adopt the official version of a crime in order to demonstrate insight and remorse.”]
- *In re Pugh* (2012) 205 Cal.App.4th 260: **If a parole candidate's version of the crime is consistent with the evidence and not inherently improbable, then it isn't evidence of dangerousness.** [“We shall conclude that any difference in Pugh's version of the crime provides no evidence of current dangerousness where his version is not inherently incredible and is not inconsistent with the evidence established in the case.”]
- *In re Sanchez* (2012) 209 Cal.App.4th 962: **A parole candidate can have insight, remorse, and take responsibility for their actions even if their version of the crime is different from the official record.** [“[T]he parole decision did not turn on the plausibility of Sanchez's account or more fundamentally on whether he posed a current danger if released, but instead on the Board's mistaken enshrinement of an official version of the offense. That misstep left no meaningful room to evaluate Sanchez's credibility or his insight, remorse, or manifest responsibility for his offense because no deviation from the official script would be tolerated. The error thus prevented any meaningful evaluation of the evidence and led instead to the unsupported and therefore arbitrary conclusion Sanchez rejected responsibility for his actions.”]

### Release plans

- *In re Powell* (2010) 188 Cal.App.4th 1530: **A parole candidate only needs to have realistic parole plans. Also, the Board can set parole conditions instead of denying parole.** [“To qualify as ‘realistic’ a plan need not be ironclad. [Citation.] Indeed, the regulation simply requires ‘realistic plans for release’ or ‘marketable skills’ . . . ¶ Nonetheless, the Board's desire to maximize the likelihood of a successful parole is appropriate. The Board may address that concern using its power to set reasonable parole conditions.”]

### Comprehensive Risk Assessments (CRAs)

- *In re Lazor* (2009) 172 Cal.App.4th 1185: **A parole candidate's CRA risk score is relevant to, but does not dictate, the decision to grant or deny parole.** ["A psychological evaluation of an [incarcerated person]'s risk of future violence is information that also 'bears on the prisoner's suitability for release' (Regs., tit.15, § 2402, subd. (b)) but such assessment does not necessarily dictate the Board's parole decision."]
- *In re Rogowski* (2025) 112 Cal.App.5th 8: **The Board/Governor does not have to accept a psychologist's diagnosis or evaluation of the parole candidate's insight.** ["[I]n making a parole decision, the Governor has discretion to reject the conclusion of a state forensic psychologist where, as here, some evidence supports the rejection."]





## **ATTACHMENT C: CALIFORNIA SUPERIOR COURT MAILING ADDRESSES**

<b>If you were convicted / sentenced in this county</b>	<b>You should file your habeas petition in this superior court</b>
<b>Alameda County</b>	Alameda County Superior Court René C. Davidson Courthouse 1225 Fallon Street Oakland, CA 94612
<b>Alpine County</b>	Alpine County Superior Court 14777 State Route 89 P.O. Box 518 Markleeville, CA 96120
<b>Amador County</b>	Amador County Superior Court 500 Argonaut Lane Jackson, CA 95642
<b>Butte County</b>	Butte County Superior Court One Court Street Oroville, CA 95965
<b>Calaveras County</b>	Calaveras County Superior Court 400 Government Center Drive San Andreas, CA 95249
<b>Colusa County</b>	Colusa County Superior Court 532 Oak St. Colusa, CA 95932
<b>Contra Costa County</b>	Contra Costa County Superior Court 725 Court Street Martinez, CA 94553-1233
<b>Del Norte County</b>	Del Norte County Superior Court 450 H Street, Room 209 Crescent City, CA 95531

<b>If you were convicted / sentenced in this county</b>	<b>You should file your habeas petition in this superior court</b>
<b>El Dorado County</b>	El Dorado County Superior Court 495 Main Street Placerville, CA 95667
<b>Fresno County</b>	Fresno County Superior Court 1100 Van Ness Fresno, CA 93724-0002
<b>Glenn County</b>	Glenn County Superior Court 526 West Sycamore Street Willows, CA 95988
<b>Humboldt County</b>	Humboldt County Superior Court 825 Fifth Street Eureka, CA 95501
<b>Imperial County</b>	Imperial County Superior Court El Centro Criminal Courthouse 650 Wake Ave El Centro, CA 92243
<b>Inyo County</b>	Inyo County Superior Court 168 North Edwards Street Independence, CA 93526
<b>Kern County</b>	Kern County Superior Court Metropolitan Division 1415 Truxtun Ave Bakersfield, CA 93301
<b>Kings County</b>	Kings County Superior Court 1640 Kings County Drive Hanford, CA 93230
<b>Lake County</b>	Lake County Superior Court Lakeport Courthouse 255 North Forbes Street Lakeport, CA 95453

<b>If you were convicted / sentenced in this county</b>	<b>You should file your habeas petition in this superior court</b>
<b>Lassen County</b>	Lassen County Superior Court 2610 Riverside Drive Susanville, CA 96130
<b>Los Angeles County</b>	Los Angeles County Superior Court Clara Shortridge Foltz Criminal Justice Center 210 W. Temple Street Los Angeles, CA 90012
<b>Madera County</b>	Madera County Superior Court 200 South G Street Madera, CA 93637
<b>Marin County</b>	Marin County Superior Court P.O. Box 4988 San Rafael, CA 94913
<b>Mariposa County</b>	Mariposa County Superior Court 5088 Bullion Street, P.O. Box 28 Mariposa, CA 95338-0028
<b>Mendocino County</b>	Mendocino County Superior Court 100 North State Street, Rm 108 Ukiah, CA 95482
<b>Merced County</b>	Merced County Superior Court 2260 N Street Merced, CA 95340-3744
<b>Modoc County</b>	Modoc County Superior Court 205 South East Street Alturas, CA 96101
<b>Mono County</b>	Mono County Superior Court P.O. Box 1037 Mammoth Lakes, CA 93546
<b>Monterey County</b>	Monterey County Superior Court 240 Church St. Salinas, CA 93901

<b>If you were convicted / sentenced in this county</b>	<b>You should file your habeas petition in this superior court</b>
<b>Napa County</b>	Napa County Superior Court 1111 Third Street Napa, CA 94559
<b>Nevada County</b>	Nevada County Superior Court 201 Church Street, Suite 7 Nevada City, CA 95959
<b>Orange County</b>	Orange County Superior Court P.O. Box 1138 Santa Ana, CA 92702
<b>Placer County</b>	Placer County Superior Court P.O. Box 619072 Roseville, CA 95661
<b>Plumas County</b>	Plumas County Superior Court 520 Main Street, Room 104 Quincy, CA 95971
<b>Riverside County</b>	Riverside County Superior Court 4100 Main Street Riverside, CA 92501
<b>Sacramento County</b>	Sacramento County Superior Court 720 9th Street Sacramento, CA 95814
<b>San Benito County</b>	San Benito County Superior Court 450 Fourth Street Hollister, CA 95023
<b>San Bernardino County</b>	San Bernardino County Superior Court San Bernardino District – Criminal Division 247 West Third Street San Bernardino, CA 92415-0240
<b>San Diego County</b>	San Diego County Superior Court 1100 Union Street San Diego, CA 92101

<b>If you were convicted / sentenced in this county</b>	<b>You should file your habeas petition in this superior court</b>
<b>San Francisco County</b>	San Francisco County Superior Court 850 Bryant Street, Room 101 San Francisco, CA 94103
<b>San Joaquin County</b>	San Joaquin County Superior Court 180 East Weber Ave, Suite 202 Stockton, CA 95202
<b>San Luis Obispo County</b>	San Luis Obispo County Superior Court ATTN: Habeas Corpus 1050 Monterey Street, Room 220 San Luis Obispo, CA 93408
<b>San Mateo County</b>	San Mateo County Superior Court 400 County Center, 4th Floor Redwood City, CA 94063
<b>Santa Barbara County</b>	Santa Barbara County Superior Court 118 East Figueroa Street Santa Barbara, CA 93121
<b>Santa Clara County</b>	Santa Clara County Superior Court 191 North First Street San Jose, CA 95113
<b>Santa Cruz County</b>	Santa Cruz County Superior Court 701 Ocean Street, Room 110 Santa Cruz, CA 95060
<b>Shasta County</b>	Shasta County Superior Court Main Courthouse 1515 Court Street Redding, CA 96001
<b>Sierra County</b>	Sierra County Superior Court P.O. Box 476 Downieville, CA 95936

<b>If you were convicted / sentenced in this county</b>	<b>You should file your habeas petition in this superior court</b>
<b>Siskiyou County</b>	Siskiyou County Superior Court 411 Fourth Street Yreka, CA 96097
<b>Solano County</b>	Solano County Superior Court Law and Justice Center 530 Union Ave Fairfield, CA 94533
<b>Sonoma County</b>	Sonoma County Superior Court 600 Administration Drive, Room 105J Santa Rosa, CA 95403
<b>Stanislaus County</b>	Stanislaus County Superior Court Criminal Division 800 11th Street, Room 140 P.O. Box 1098 Modesto, CA 95353
<b>Sutter County</b>	Sutter County Superior Court 1175 Civic Center Blvd. Yuba City, CA 95993
<b>Tehama County</b>	Tehama County Superior Court Criminal Division 1740 Walnut Street Red Bluff, CA 96080
<b>Trinity County</b>	Trinity County Superior Court P.O. Box 1258 Weaverville, CA 96093
<b>Tulare County</b>	Tulare County Superior Court 221 S. Mooney Blvd., Room 124 Visalia, CA 93291
<b>Tuolumne County</b>	Tuolumne County Superior Court 12855 Justice Center Drive Sonora, CA 95370

<b>If you were convicted / sentenced in this county</b>	<b>You should file your habeas petition in this superior court</b>
<b>Ventura County</b>	Ventura County Superior Court P.O. Box 6489 Ventura, CA 93006
<b>Yolo County</b>	Yolo County Superior Court Criminal Division 1000 Main Street Woodland, CA 95695
<b>Yuba County</b>	Yuba County Superior Court 215 Fifth Street, Suite 200 Marysville, CA 95901



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## **ATTACHMENT D: FORM HC-004 NOTICE AND REQUEST FOR RULING**



ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):		<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b>		
In re:  DEFENDANT: _____, on habeas corpus Date of birth: _____ California Dept. of Corrections No. (if applicable): _____		
<b>NOTICE AND REQUEST FOR RULING</b> <b>(Cal. Rules of Court, rule 4.551(a)(3)(B))</b>		CASE NUMBER:

I, \_\_\_\_\_, filed a petition for writ of habeas corpus in the above entitled case in the Superior Court of California, County of (name): \_\_\_\_\_ on (date): \_\_\_\_\_

As of this date, I have not received a ruling on the petition within 60 days of filing as required by rule 4.551(a)(3)(A) of the California Rules of Court. Therefore, I request that the court rule on the petition. (Cal. Rules of Court, rule 4.551(a)(3)(B).) A copy of the original petition for writ of habeas corpus is attached to this *Notice and Request for Ruling*.

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

Date: \_\_\_\_\_

\_\_\_\_\_  
(TYPE OR PRINT NAME)

\_\_\_\_\_  
(SIGNATURE)