



JERRY THROWS A TANTRUM, DEMANDS HIS PRISONS BACK

All but stamping his foot and holding his breath California Governor Jerry Brown, in a great example of a the old bromide the best defense is a good offense (especially if you're on the indefensible side) told the 3 judge federal panel he's not gonna play anymore. Monday, January 7 was the latest in a series of deadlines set by the judges for California to provide a plan as to how it would meet the population cap set by the judges and confirmed in 2011 by the US Supreme Court. And once again, literally the 11th hour, the state failed.

After first indicting the administration would hold a conference call on the morning of January 8 Brown's administration instead decided, very late Monday night (as in 2 hours before the midnight deadline) to instead challenge, again, the power of the federal judges to impose the cap, especially in the face of what Brown passionately, and a little belligerently, called "[a] job now complete." Instead of complying with the previous direction of the court to 1) produce a plan that would result in reduction to the set level by set dates and/or 2) providing the judges with benchmarks for those prisoners who could safely be released from prison prior to the completion of their sentence (the so-called 'early release') the state overnight filed documents claiming conditions in California prisons has so vastly improved that the population cap was no longer needed.

The state maintains it can meet the court's current population cap of 137% of design capacity only if the court waives numerous state laws and "orders the outright early release of inmates serving prison terms for serious and violent felonies." The court action also claims sentencing laws would have to be changed and prisoners who would who would normally be sent to state custody to serve nine months or less in state prison would have to spend their time in county jails. Unable to resist the fear card, Brown also claimed. "Make no mistake about it: Releasing prisoners who were convicted of serious and dangerous crimes is not in the public interest."

Like a circuit preacher warming to his subject Brown claimed prisoners now receive “gold plate” health care, better than they would receive on the street (true only if they were homeless on the street). Following the lead of their leader, state’s attorneys stated in their court filing “The overcrowding and health care conditions cited by this Court to support its population reduction order are now a distant memory. California’s vastly improved prison health care system now provides inmates with superior care that far exceeds the minimum requirements of the Constitution.” Apparently state attorneys have a very, very short memory.

The direct but usually laid-back Brown was all feisty zealot at his press briefing, calling the judges’ order “intrusive” and “nit-picky” and vowed to fight the judges to the bitter end—or at least to the US Supreme Court for one more round. Fueling the fire fight Brown also lifted the state of emergency imposed in 2006 by former Governor Schwarzenegger, declared “The prison emergency in California is over,” and claimed California now boasted “one of the finest prison systems in the United States.” He also roped into the fray his newly-minted and as yet unconfirmed by the Senate Secretary of Corrections, Jeffrey Beard. Beard, who has not yet officially begun his duties, isn’t yet in Sacramento and hasn’t been seen in public, chimed in by statement, ““Instead of ordering the early release of potentially thousands of serious and violent felons, it is hoped that the federal court will recognize that we are now providing a constitutional level of care, and therefore an arbitrary population cap is unwarranted.”

Previous attempts by the state to have the judges lift or raise the population cap have been denied with increasingly strained patience by the judges, who have indicated they would not increase the population numbers but might, once again, allow the state more time to reach that level. Prisoner attorneys dispute Brown’s claims of a fully rehabilitated prison system and maintained the state could still impact the population via such means as lowering the threshold for sending inmates to firefighting camps, expanding work furlough, restitution centers and alternative custody programs, and slowing or suspending the return of California inmates from out of state prisons.

“We’ve got it. Enough already,” Brown complained at his press briefing. “We can run our own prisons, and by God let those judges give us our prisons back. We’ll run them right,” Brown fumed before grabbing his papers and stomping out.

OK, Jerry. Sounds like someone needs a time out. In the meantime, no early releases scheduled.

UPDATE ON VICKS

Oral arguments were heard January 8 in the California Supreme Court on In Re Vicks, challenging the long-term parole denials brought on by Marsy’s Law. No decision was forthcoming, nor was one expected--these were oral arguments only and the justices will deliberate and render their decision in a few months.

However, an observer in attendance told LSA that while lifer attorney Steven DeFilippis presented a strong argument in favor of the prisoners’ case and the attending Assistant Attorney General had both a weak argument and weak case, it appears rather doubtful the judges will overturn the ex post facto provision of Marsy’s Law. This assessment is based on the questions and reactions from the justices. It appears the judges may, as feared, be reluctant overturn long parole denials to prisoners sentenced prior to the enactment of Marsy’s Law in 2008, as this would call into question hundreds, perhaps thousands, of long-term denials that would have to be reviewed and new hearings possibly

scheduled. This would inevitably create a tremendous backlog of hearings much like the BPH experienced several years ago, a situation that resulted in a suit against the board and years-long waiting for hearings. A real and true mess.

The justices could surprise us and do the right thing, but we fear they will not have the political courage to do so, and may instead deny on very narrow procedural grounds. The court will rule within 90 days. The wait continues.



NEW SECRETARY OF CDCR NAMED; FAMILY FRIENDLY?

Governor Jerry Brown has officially named his pick to succeed former Sec. of Corrections Matt Cate (who left in November), and it is a relative 'outsider' to California prison politics, who is nonetheless not unknown here. Dr. Jeffrey Beard, former Director of Corrections for the state of Pennsylvania, while already officially sworn in, will assume his duties reportedly in late January.

Beard, who began a career in criminal justice in 1972, served 9 years as head of the Pennsylvania system under both Democrat and Republican governors. Beard began his career as a corrections counselor, a Masters and Ph.D. in counseling, a B.S. in psychology and is licensed psychologist in Pennsylvania. Since retiring as Director of Corrections in Pennsylvania he has served with the National Institute of Corrections and as a Professor of Practice in the Justice Center for Research at Pennsylvania State University.

As far back as 2007 Beard was tapped for participation on panels studying the continuing mess of California corrections, including looking into complaints contained in the Coleman lawsuit since 2011. Beard, in fact, came down on the side of prisoners, saying it was impossible to run a prison system bursting at 200% of capacity.

Beard has a reputation dependable administrator, political centrist (he is registered as "Decline to State" political party affiliation) and a firm advocate of making sure families can visit their inmates. He reportedly supports evidenced-based programs and has seen the inside of the California prison system enough to know what he's taking on.

The new Secretary has received good reviews from most sources, not only Brown, who crowed, "The new secretary has just the experience California needs. [J]eff Beard has arrived at the right time to take the next steps in returning California's parole and correctional institutions to their former luster." Uh-huh.

Former Secretary Cate said he thought the governor made the right choice, though he advised his successor to learn California politics as quickly as possible. Don Spector of the Prison Law Office also praised the choice, saying "I think it's important to get new perspectives. That's something that's been lacking in California prisons for decades. I think it's terrific that we will have somebody from the outside to bring in some new ideas and move California into the mainstream of what other systems in the country are doing."

In coming West to California Beard leaves a corrections system with 26 prisons, one boot camp, 14 community corrections centers and 40 contract facilities, all under state supervision and housing some 51,000 inmates. He now assumes oversight of the convoluted California system of 33 (soon to be 34) prisons/camps housing 123,700 prisoners in-state and another 9,000 in out-state contract facilities, still holding at 146% of design capacity. Welcome to California, Dr. Beard.

The Senate will hold a confirmation hearing for Beard to his \$225,000 a year position later this year.



THANK YOU

Thanks once again from the LSA staff to the men of 5 yard at Avenal State Prison for their recently received contributions to our efforts. This is not the first time we have received donations from this yard, and while we greatly appreciate all donations to help us fund our work, those coming from inmates hold special meaning for us.

We know well the limited nature of inmate resources and the sharing of those resources with us is deeply appreciated. We have also received contributions from individual prisoners and we thank you for those as well. You help make it possible for us to continue our work and rekindle our resolve.

Thanks also for the many Christmas and Holiday cards sent to us from many prisoners in various prisons this season. Your thoughtfulness in remembering us in your holiday wishes is very gratifying. In the New Year there will be new challenges, and some old ones remain. Know that we remain committed to working for lifers and their families in whatever ways we can

HOW YOU CAN HELP

As LSA continues to address lifer issues with the Board of Parole Hearings, the CDCR and the legislature our greatest strength (aside from persistence) is the factual basis on which we base our reports and conclusions. And those facts come from prisoners, the information you send us on issues affecting you and your fellow inmates.

Currently we are collecting information on several on-going studies, the main ones being performance of state-appointed attorneys in parole hearings, the use of confidential information in denying parole grants, impact and actions of victims' family members appearing at parole hearings.

This information is used to bring problems and possible solutions to the attention of the various agencies involved. Most recently we presented the BPH with our initial findings on the performance of state-appointed attorneys, including the first list of poor performers. We also requested the Board consider developing a process to allow lifers to file formal complaints against those ill-performing counsels and a procedure for holding the attorneys accountable.

We are also accumulating documentation of the incidence and treatment of Valley Fever, problems encountered in visiting, problems in accessing self-help programs for lifers, the use of psychological evaluations in parole hearings and unprofessional/ethical actions by parole commissioners. Survey forms are available from LSA for some of these issues, but not required. We urge you to write us on any of these issues that you have personally experienced and can provide solid information about. Details are very important: general complaints and broad statements are not useful.

When you write please provide as much detail as possible. Highly important are the names of those involved. To tell us you don't feel your state appointed attorney did a good job is not enough if you don't provide the name of the attorney, the date of the hearing and his/.her improper actions as well as your name and number.

We are very judicious in use of prisoners' information and use it only to obtain documentation to support the accusations. The same goes for all issues. We cannot and do not file general or vague complaints as this undermines not only our credibility but that of inmates as a group as well. And we do double check facts and circumstances before citing any example in support of our concerns.

As we expect due diligence from attorneys, we hold ourselves to the same standard; check the facts, then check again before moving forward. We want your experiences; we need them to make an impact on problems. We will be your voice but you must provide us with the arrows in our quiver. We will send survey forms to all who request but your complete statements of facts are just as useful. Please send us information on any of these issues, and also please understand if we do not respond that we have received your letter. At the rate of 150+ letters a week we lack time and resources to send an acknowledgement.

Please send us your concerns to LSA, PO Box 277, Rancho Cordova, and Ca. 95741 and indicate on the envelope what issue you are addressing. Similarly, please include your contact information in the body of your letter, as envelopes often become separated from mail.

As we continue to gather and collate information we will publish our results and actions in Lifer-Line and California Lifer Newsletter.

FIRST REPORT ON STATE APPOINTED ATTORNEYS

In line with our request for factual information from prisoners regarding their experiences with state appointed attorneys LSA recently presented the Board of Parole Hearings with the first results of our survey. We feel it only right we should share those results with our most important audience, prisoners.

Herewith is the first of a continuing series of reports on how you feel, and why, about those who have been appointed to represent you in parole hearings. Keep in mind, LSA is not a legal office and cannot evaluate the performance of attorneys from a legal competency standpoint. Our summation and concern is based more on how these individuals execute their fiduciary duty to communicate, advise and protect the interest of and assist their clients. We will report on those who receive favorable reviews, as well as those who do not. This first report includes those who have been reported to be less than stellar.

Leon Harris III, Bar # 11073, Bakersfield, CA.

Mr. Harris received more negative responses than any other attorney mentioned. He is universally seen as uncommunicative with clients and their families, not prepared to discuss specifics of an individual's case and unresponsive to factual errors pointed out by inmate clients. He has sent confusing letters to inmates, informing them of an incorrect parole date and never bothering to correct that information to the prisoners, is condescending to family members and unresponsive to their requests for communication. He also reportedly often fails to include support letters sent to him in the parole packet.

Kirk Enders, Bar # 225525, San Luis Obispo

Mr. Enders often fails to communicate with clients in a timely fashion and/or does not appear at hearings without notification to either the client, or, reportedly, the Board. He fails to follow through with promised actions, including filing requests for postponement, leaving his clients both uninformed and under-represented. Several inmates also reported they felt greatly pressured by Mr. Enders to stipulate to unsuitability, often being told "this panel just isn't giving out dates," or the suggestion they are courting a long-term denial without a stipulation.

Johnwilly Osuji, Bar # 237179, Ontario

Mr. Osuji, while apparently well-meaning, presents what may be a cultural challenge, but none-the-less one that negatively impacts inmates. Mr. Osuji's accent is pronounced and difficult to understand, so much so that one inmate received a notation from a transcriber noting "Osuji has an extremely thick accent almost impossible to decipher." Mr. Osuji may have an imperfect grasp of the parole process, including when to make objections, what documents are being referred to and the purpose of those documents.

Candice Christensen, Bar # 187921, Sacramento

Ms. Christensen reportedly is less than thorough in preparation for hearings, provides little support or direction to her clients: more than one inmate compared her performance as much like having their grandmother represent them. She is vague on facts in hearings, seldom presents a comprehensive presentation of her client and meets only perfunctorily with them.