Charles - I thought this might be of interest to you. :) Keep up the fantastic work. Your kindness is needed. Thank you for being there.

J.L

SJRA ADVOCATE

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Remember the Prisoners

Chino (CIM) is some kinda role model

11/25/11 . . . Dear Barbara, I am sending you this note to update you that I have been recently transferred to Chino, CIM (California Institute for Men), East. They recently opened up for Special Needs Yard (SNY) intake in October 2011. The overall capacity of this prison's inmate population is somewhere around 750-800, I believe.

I can't even begin to convey the total mess that is here. There are about 400 cells in which the electrical outlets have been gutted and filled with cement. There is no electrical power in those cells at all, except for a light switch outside the cell which one must continuously try and get someone who is out on the tier to turn one's lights, on or off.

The mess halls and kitchens are rat-infested. So, there you have it! Our State-of the Art Model Prison!

God Bless You and All of Yours,
(Name withheld at discretion of editor).

11/08/11 . . . Hi Miss Brooks . . . I and other inmates were transferred to CIM-East. We were told, "Really Lied to" about a better program at Chino. The staff at CSATF lied to us, saying CIM-East needed programmers; guys with good time; workers. Some guys said yes, some said no. But they made us come anyway. Me, I did not want to be transferred, because I was programming right where I was. Now, about 260 inmates from SATF and over 260 from PVSP are being sent here to CIM-East. This prison is not ready for any of these inmates. NO electricity, NO PLUGS, OUTLETS in any of the buildings. NO HEATING, SHOWER WATER IS COLD, showers every 3 days. NO electricity outlets in the cells to heat up water for soups or coffee in order to use any food we brought with us, or that we're buying at the store. We cannot plug in our TVs, radios, any appliances we brought with us, items we've had for years . . .

We are being told at CIM-East that we are NOT getting any power in our cells, batteries are not being sold in the store. The chow hall that we are eating in is the WORST, mold on the walls, no flooring, ceiling tiles falling out, electrical outlets hanging off the wall. Food trays are dirty. I'm NOT LYING. IT'S BAD! The shower in Coluso Building is cold water, mold all over the walls. THE PLUMBING IN THE SHOWER BACKS UP WATER UP TO YOUR ANKLES.

CIM-East has been housing parole violators for years, but now they're changing to a level 3-SNY Yard. Guys that have many years to do, and lifers, some have been down 30-25-20 years. A lot of guys trying to do good to go home. Bottom line, we should not be treated like this. This place can be cleaned up, if they start from the top . . . the Warden, Captain, Lt, Sgt, CO . . . I know CA is BROKE, but most prisoners want to work . . .Main thing we all want are POWER PLUGS in the cells, HOT WATER to cook, to shower, and CLEAN chow halls. Not having any power plugs in our cells to use, fo appliances to cook our food items, it just is not right. Well, what to do??? Have a good day, thank you for listening, Miss Brooks.

(Name withheld at discretion of editor).

How was your Thanksgiving?

PRISON FOOD: BREATHARIAN

By Spoon Jackson
CSP-SAC

Yes, I know, who cares what food you feed the animals? To look at the prison menu and how the food is described, you think you are getting delicious and real food. Only what is served is nothing like the menu. It is like getting a big bag of chips with a pretty picture on the cover, but inside, only air. The so-called cheese they serve does not even melt.

The chicken, beef, fish and turkey are all 99 percent soy mixed with some lumpy bubbly soup. This is the magical soy patty that's said to be meatloaf, hamburger, steak, fish, chicken, turkey, and also pancakes! Yes, this same hunk of cardboard they try to pass off as pancakes.

Every day the food smells the same, like moldy slop, and not even the fresh garbage you'd feed your hogs. Cabbage casserole was served today for dinner. I adore cabbage casserole, and it would have been fine if there was just a sliver of cabbage offered in it. There *were* some dirty-brown sponge-like sprinkles that looked like pale, rotted, ground beef.

I found out a few years ago that I am a Type 2 diabetic. Medical staff here at the prison tells me that I should not eat this or that, and that nearly all the food on the institutional menu is bad for diabetics. There are no diabetic diets here and they expect you to fend for yourself without any healthy foods to choose from. Diabetics are provided with the exact same food as non-diabetics. Medical staff then advises diabetics not to consume most of the food on the regular tray. Yet there are no alternative foods offered. I suppose they want me to be a diabetic breatharian and live off all of the unseen, sugar-free, nutrients in the air.

I spoke with a free cook recently, someone who gets paid to cook, and I asked him if he would eat any of the food he prepared or oversaw. He smiled with disgust and said, "Hell no! You could not pay me to eat it!"

ENHANCEMENTS IN CALIFORNIA CRIMINAL LAW:
Making sense of tacking on more time.

By Charles Carbone, Esq.
Prisoner Rights Attorney

PART 2

4. Enhancements for crimes causing great bodily injury.

After learning about gang enhancements, the enhancements for causing great bodily injury (GBI) are refreshingly straightforward.

The first question is determining what injuries qualify as a "great bodily injury." The Penal Code calls it, "a significant or substantial physical injury." (12022.7(f).) This is a broad definition, and the jury gets to decide whether an injury qualifies or not. With sex offenses, giving the victim a sexually-transmitted disease can qualify as GBI. At least one jury found that pregnancy was a GBI, where the defendant had consensual (but illegal) sex with a minor.

The standard GBI enhancement is 3 years, and it applies to anyone who causes GBI during the commission of a felony or an attempted commission. (PC 12022.7(a).) It does not apply if the only person who suffers GBI is an accomplice.

A harsher enhancement applies when GBI or death results from shooting a firearm from a vehicle. In that case the enhancement is 5, 6, or 10 years. But this enhancement only applies when the defendant had the intent to cause GBI or death.

The GBI enhancement has one limitation. It cannot be applied if causing GBI or serious bodily injury is an element to the offense. As a result, it does not apply to murder or manslaughter. As another example, PC 243(d) is the crime, "battery involving the infliction of serious bodily injury." Because inflicting a serious injury is part of the crime, the defendant cannot also be punished with a GBI enhancement.

Finally, remember that some of the enhancements discussed earlier in this article involved GBI. For example, any felony where the defendant causes GBI counts as a violent felony under the three-strikes law.

5. Carjacking enhancements.

Carjacking has already been discussed above, because it is both a serious and a violent felony. Hence, a *prior* conviction for carjacking will result in a 5-year enhancement for a *new* felony conviction. It is also covered by STEP and the 10-20-life firearm enhancement.

However, there are a few other enhancements. Personally using a deadly weapon during a carjacking gets a 1, 2, or 3-year enhancement. (PC 12022(b)(2).) There is also an enhancement applied to defendants who served prior prison terms for violent felonies. If those defendants are convicted of carjacking, the court imposes a 3-year enhancement for *each* prior prison term the defendant served for a violent felony. (PC 667.5(a).)

6. Consecutive versus concurrent sentences.

This section explains how courts choose between consecutive and concurrent sentences, and how to calculate the total consecutive sentence.

i. *What is the difference between consecutive and concurrent sentences?*

This question comes up when a defendant is convicted of more than one crime in a single case. For example, suppose a defendant was convicted of two crimes, A and B, and they both carry a 4-year sentence. If the sentences are "concurrent," they are served at the same time. The defendant serves both 4-year sentences together and gets out after 4 years. But, if the sentences are "consecutive," they are served one after the other. So the defendant serves 4 years for crime A, and then serves another 4 years for crime B, for a total of 8 years.

ii. *How do courts choose between consecutive and concurrent?*

Unless a statute requires consecutive sentences, the trial court has discretion to choose. (PC 669.) Most, if not all, of the enhancements in this article are required to be served consecutively.

The Rules of Court list criteria that courts should consider (Rule 4.425), but the court can also consider factors that are not listed. Here are some factors from the list:

- Were the crimes and their objectives independent of one another?
- Did the crimes involve separate acts of violence or threats of violence?
- Were the crimes committed at a single time in a single place, or at multiple times in multiple places?

The Rules of Court also list factors that the court cannot use to impose consecutive sentences. (Rule 4.425(b).) This list includes: a fact used to impose the upper sentence term; a fact used to enhance the sentence; and a fact that is an element of the crime.

If the court chooses to impose consecutive sentences, it has to give a statement of reasons for that choice. (PC 1170(c).)

iii. *How are consecutive sentences calculated?*

Calculating the total term for consecutive sentences is not as simple as adding up the sentences for each crime. Instead, there is a three-step process. But before we get to the steps, we have to define some terms.

Three terms need defining. First, the "principal term" means the crime for which the court *imposes* the longest sentence, plus enhancements that apply to that crime. The principal term is not necessarily the crime with the longest *possible* sentence. Second, the "subordinate term" simply means the term for the other crimes (not the principal), plus enhancements for the other crimes. (See Page 4)

The Infection of California's Initiative Process

. . . by the California Guards Union and their Cronies

By Bruce Swenson
CTF-Central
PART I

In 1911, California added to its constitution the initiative, referendum, and recall process for the voter ballot system. This was done to reclaim political power from interest groups and their bedfellows in the Legislature.[1] The Initiative allowed individuals or groups to put up policy proposals without going through the Legislature. The Referendum permitted voters to remove elements of California Law, and the Recall made it possible for citizens to oust elected state leaders, state lawmakers, and even Appellate Court Judges.

A few years ago there were 38 proposed constitutional amendments in our legislature filed in order to reform the budget process, the initiative process, and the rules for elections in California. For our legislature to place a constitutional amendment on the voters ballot, it requires the approval of a two- thirds super majority of both houses. It is reasonable for our citizens to expect state government to solve state problems. But, is our legislature capable of reforming itself?

When our Legislature is constantly paralyzed with partisan ideology, and succumbs to special "hidden agenda" interests, dysfunction fuels public cynicism and gives root to social apathy. An impotent legislature only leads to more sloppy policy making by initiative! Thus... it is the fault of our state elected officials that abusive initiatives are allowed to come about from groups or individuals. Sixty percent of the state's general fund is locked into place by citizen-made laws. Special interests spent over $1.3 Billion on proposition battles between 2000 and 2006, according to the Center for Governmental Studies, an L.A. based political reform organization. State Senator, Mark Desulnier says, "What is wrong in California is abuse of the initiative system." Eleven percent of the state's general fund also goes annually into a failed prison system run by a guards union, whose sole aim is to, according to most experts, defeat all efforts for sentencing reform. This union, along with its spin-off creations (Crime Victims Groups) have single handedly driven up costs for sentencing by supporting bills and initiatives, which would guarantee their own growth and job security. It has become such that if one can spend enough money, one can get almost anything onto a ballot. Then again, campaigns for and against ballot initiatives, also have grown in costs. The campaign in 2004 to oppose or support Prop. 66 (the initiative to amend our California three strikes law), spent nearly $10.5 million collectively.

Initiatives have become an end-run means for rich interest groups to make state policy and effect budgetary funding, in spite of the Legislature. Unlike statutory proposals that go through a legislative process, ballot initiatives are not subject to public and professional scrutiny. Since initiatives related to crime and punishment present voters with a choice of "Yes" or "No," they support an illusion as if voters must choose between victims or criminals. This illusion completely displaces all responsibility for "Ethics," "Morality," "Economics," and duplicity of existing law. The treachery of this then is, that our initiative process has become the perfect tool for "penal populists" who force their own self-interests against naïve voters, as if they know better than penal experts, professional criminologists, sociologists, behaviorists, etc. Consequently, certain individuals fueled with vengeance, and victims organizations funded by our California prison guards union, present themselves as the best ones to determine punishment policies and even sentencing laws.

Since the late 70's, the guard union, California Correctional Peace Officers Association (CCPOA), along with certain politicians, have infected the initiative process, so as to tap directly into emotion for affecting particular penal measures. The story of three strikes in California demonstrates the ultimate abuse of "direct democracy" for implementing a radical law that was unthinkable in America just decades earlier.

The story of Three Strikes in California started in June of 1992, when a parolee murdered Kimber Reynolds. Mike Reynolds, her father, organized a group to write a law that would forever incapacitate repeat offenders like Kimber's assailant. The law this group developed should have been called the One, Two, or Three strikes and you are out . . . law! It mandated double-up terms for second strikers, allowed any felony to be used as a third strike and even made it wide open as to how many strikes may be applied into a single event and plea! Worse yet, the definition for what exactly a strike must be was left very unclear. This little group developed a law more complex and far reaching than its title suggested. Third strikers would get a quarter century to life, and not be eligible for parole until they served 80 percent of that time.

But, that was not good enough for then Governor, Pete Wilson. His secret plan was to make sure that all three strikers did 100% and more of their time. So... after this bill (AB 971) had been reviewed and selected by the legislature... just prior to its passing on March 1st, 1994 ... he made a word-swap in the sentencing language of that same bill. In doing so, he was keeping a handshake deal made with the leader of the guards union, Don Novey. Novey could now guarantee to his union, that a whole new flood of less serious, less violent convictions will be fattening-up their prison empire. All it took was the removal of one word . . . "authorize" . . . and then replacing it with "does not prohibit" into the sentencing language, and bingo; you now have no custody credits at all!!

The word swap had been unnoticed by Mike Reynolds and his little group, or even the entire Legislature. It was thought that third strikers doing a "life-term" would be eligible for gain-time equal to any other Lifer. (Not more than one-fifth in custody credits.) So, when the guards have more to guard, for longer periods of time, the union must grow, needing more rank and file; and then they can hand over more dues to campaigns, (such as Pete Wilson for President), and so the penal populists "spin their web."

Of course, Don Novey contributed $100,000 to Mike Reynolds immediately thereafter. And of course, Don Novey makes it clear to the union membership that they are now to "get behind the Three Strikes and You're Out Initiative," which will be coming up by year's end as Prop. 184. The already passed bill (AB 971) together with an initiative sharing identical language, will together make double sure that this sentencing scheme will be tamper proof.

And, so they did! Reynolds was so well financed that he was able to submit double the needed signatures to qualify Prop. 184 for the ballot. When voters were so overwhelmed with what they were told they were voting for, rather than the facts, 72 percent of them voted for its passage. From that point on, it would take two-thirds vote of the Assembly and Senate, plus approval of the governor ... or, a new ballot initiative to amend or repeal California's new three strike law.

After Don Novey's seed money contribution, his union (CCPOA) fully embraced three strikes. Later he states, three strikes has become our Law."

To be continued in next issue.

ENHANCEMENTS

(Cont'd from Page 2)

For example, assume defendant is convicted of crimes A, B and C, and in order the defendant is sentenced to 5, 3, and 1 years. Crime A's 5-year term is the "principal term" because it was the longest sentence imposed. Crimes B and C are the subordinate terms. Finally, the "aggregate term" is the total sentence.

Now, here are the three steps courts apply to calculate the aggregate term.

In step one, the court freely chooses the principal term, including any enhancements. This is easy because the judge simply uses whatever crime he or she gave the longest sentence for.

Step two is more complicated. In step two, the court calculates the subordinate term by imposing one-third of the middle term for the other crimes, and one-third of the enhancements. If an enhancement has multiple terms (for example the 3, 4, or 10-year enhancement for use of a firearm in PC 12022.5), the court chooses the one that best serves the interests of justice, then imposes one-third of that term. We will see an example in a moment.

Step three is to add the principal and subordinate terms together.

iv. An example.

Suppose defendant is convicted of three crimes: (1) lewd and lascivious act on a child under age 14; (2) second-degree robbery with a victim older than 65; and (3) unlawful driving of a motor vehicle. Now we apply the three steps.

In step one, we calculate the principal term. The lewd-and-lascivious- act conviction has a sentencing range of 3, 6, or 8 years. The robbery conviction has a range of 2, 3, or 5 years. Either one can serve as the principal term. It depends on which charge the judge decides to impose the longer sentence for. We will assume the judge sentences the defendant to 8 years for the lewd-act conviction. That becomes (Cont'd Page 4)the principal term.

Step two is calculating the subordinate term. Count 1 is the principal, so counts 2 and 3 will form the subordinate term. Remember, for the subordinate term, the court imposes one -third of the middle term, and one-third of any enhancements.

So, for count 2, the robbery, the range is 2, 3, or 5 years. The court will impose one-third of the middle term. Here, the middle term is 3 years, and one-third of that is one year. So the subordinate term on the robbery charge is one year. The robbery charge also has a 1-year enhancement because the victim was over age 65. The court will impose one-third of that enhancement. One-third of one year is 4 months.

For count 3, unlawful driving, the sentencing range is 16 months, 2 years, or 3 years. To calculate the subordinate term the court uses one-third of the middle term. One-third of 2 years is 8 months.

The total subordinate term is 1 year 4 months for the robbery and enhancement, plus 8 months for unlawful driving. One year + 4 months + 8 months = **2 years.**

In step 3, we add the principal and subordinate terms to find the aggregate term. Here, the principal term is 8 years for count 1. The total subordinate term is 2 years. So the aggregate term is 8 + 2 = 10 years.

v. Another example.

Now we will see an example where the court does not choose the longest available sentence as the principal term. Suppose the defendant is convicted of crimes A and B:

A's sentence range: 16 months, 2 years, or 3 years.
B's sentence range: 2, 3, or 4 years.

The sentencing court can choose either crime as the principal term, even though the max on crime B is longer than the max on crime A.

For step one (calculating the principal term), assume the court imposes the lower term of 16 months for crime A. Even though that sentence is shorter than the minimum for crime B, the 16-month sentence will serve as the principal term here.

For step two (calculating the subordinate term), the court imposes one-third of the middle term for crime B. The middle term is 3 years, and one-third of that is one year.

Now it makes sense that crime A is the principal and crime B is the subordinate. It is because the principal term is always the longest sentence the court actually imposes. Here, 16 months for crime A is longer than one year for crime B, so crime A is the principal term. This example shows that the principal term is the longest sentence *imposed*, not just the longest sentence *possible*.

7. Conclusion.

Hopefully the sentencing enhancements are easier to understand now. These are very harsh laws, and the years can pile up quickly. Share this knowledge with your family and friends. The more people who learn about how the system actually works, the more likely change will come.

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LIFE SUPPORT ALLIANCE UPDATE

Latest information is that confirmation hearings for Parole commissioners appointed this year by Gov. Brown will begin sometime in April. Although LSA has been attending parole hearings in an observer capacity for several months we are seeking additional information on the new commissioners in order to form fact-based opinions in support or opposition to confirmation.

We're asking any prisoners who have had hearings before the following commissioners to send us information on the hearings, using either our survey form (available in the next Lifer-Line newsletter or by email or mail from LSA) or on plain paper: Commissioners **Figueroa, Fritz, Turner, Moseley and Robles.**

While the OAL approved the change to section 2240 of Title 15 regarding the Forensic Assessment Division and psych evals, there were some irregularities in this approval and LSA, in conjunction with legal advisers, is contemplating a challenge to the approval. Part of that possible challenge will be demonstrating the lack of consistency in evaluations. Toward that end we are soliciting psych evals from any prisoners who have had sessions with the FAD. Again, a survey form is available from LSA, if desired.

We are especially interested in those pages of the psych evals that note the scores given by the psychologists on the various tests employed by the FAD, the diagnosis of personality disorders and the evaluation of level of dangerousness/violence.

If any prisoner wishes to contribute to this data cache we will redact the names of the prisoner, and will copy the appropriate pages and return the evaluation by mail.

Thanks in advance for any help.

Vanessa Nelson
Life Support Alliance
(916) 402-3750

Stay informed on Parole Board issues with LSA newsletter.

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Stamps appreciated

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FIRE CAMP FOIBLES

By Jane Dorotik
CIW

The CDCr Forestry Program is a great program. It trains inmates to assist state workers in fighting fires around California. It saves the state and taxpayers money by augmenting California state employee firefighters. The program also directs inmates toward a viable productive job upon release. Both excellent outcomes for the program.

CDCr has strict eligibility criteria for prisoners to be allowed to participate in this program and offers special incentives to encourage participants, namely reduced prison time. Prisoners who agree to the rigorous training and the hard work are rewarded with an expedited release date. In other words, instead of serving their full prison term, they serve a lesser percentage of their term, providing they continue to participate in the fire camp program and they remain committed to their rehabilitation.

When CDCr was directed by the courts to reduce their prison population to meet constitutionally protected rights to healthcare, CDCr filed a response to the courts outlining some of the efforts already in place to reduce overcrowding. Particularly highlighted was SB-18, which became effective in January 2010, and five specific sentence credit enhancing changes were delineated as examples of efforts to reduce prison overcrowding.

The third bullet point in CDCr's court response is as follows:

> "Providing two days of credit for every one day served once the inmate is endorsed to transfer to a fire camp, rather than providing such credit only after the inmate actually participates in the camp."

Now all of this sounds really great. CDCr working hard to reduce its prison population, working hard to further incentivize a program that is proven to be effective on many fronts.

If it were really happening! Unfortunately CDCr is not, thus far, providing the additional credit they are touting to the courts.

In fact, many women here at CIW are filing grievances/appeals based on not receiving the additional credit due them. Thus far, the written responses provided these women have been;

> "You will be eligible for two-for-one after the completion of the PFT training. Once you pass the training you will be eligible for camp transfer and eligible for 2 for 1 days."

Now this is not what the CDCr court document says, nor is it what SB-18 says. This may seem like a small thing, perhaps only amounting to a ten day additional credit, or ten days earlier release date. But for an incarcerated mother, desiring to be back at home with her children and her life, every day is critical. Ten days is no small thing.

But when you multiply those 10 days, or more realistically 60 days of additional credit, (after all, this is CDCr and there is very often a long time between endorsement to a program and actual participation in the program) the numbers really jump.

Here is how it breaks down in terms of additional days of incarceration and additional cost to the state's taxpayers:

There are approximately 240 women in CIW in the fire camp program.

There are approximately 300 women already out in the three fire camps in the community.

So that is 540 women eligible for expedited credit.

Now, if each of these women only waited 10 days between endorsement to the fire-fighting program and actual participation in the program, the additional days are as follows:

- 540 women X 10 days = 5,400 or 14.8 years of additional aggregate time
- At an average annual cost of $50,000 per inmate, per year, this adds up to an additional cost to the state taxpayers of **$740,000.**

Now if each of these women waited 60 days between endorsement to the fire-fighting program and actual participation, the additional days are as follows:

- 540 women X 60 days = 32,400 days or 88.8 years of additional time
- At an average annual cost of $50,000 pre inmate, per year, this adds up to an additional cost to the state taxpayers of **$4,400,000.**

This is how it is for the women. I don't know what is happening for the men who participate in the fire camp program, or if they are receiving the credit due them. But what I do know, is that just based on the small number of women fire camp participants, this is not a small thing on many, many levels. Women getting home to their loved ones sooner, the state saving a lot of money, CDCr doing what the law says they are to do.

I have written a "model 602" for the women to utilize in advocating for their rightful credits, I have also sent it to the Prison Law Office asking them to share it with the mens' prisons in the event that they are not receiving their just credit.

Let's see what happens!

The Messages Project

The Messages Project and The Place4Grace came together to film important messages that fathers at Calipatria State Prison needed to send home to their children. Each father was given fifteen minutes to send a special message and to read a bed-time story. For some of the children, it will be the very first time that their father has ever read to them. Children of the inmates who participated will receive a DVD of their father, along with the book, so that they can read along together.

Children of the incarcerated are often the forgotten victim of the parent's crime. Each day, more than two million American children wake up in a household where one or both or their parents are absent due to incarceration. In California, 70-80% of men and women behind bars are parents. One of the best ways to quell the ill effects that incarceration of a parent has on young children is to encourage bonding and contact while the parent is away. Every child needs to know that their parent loves them, and what better way to be reminded then to get a loving "message" from daddy or mommy.

The CA Messages project also benefits the prison and society as a whole, as inmates must remain discipline free to participate in the program. Additionally, studies show that strong family contact during incarceration improves outcomes in and out of prison.

To view some of the photos from the project, please follow the link provided to facebook:

https://www.facebook.com/#!/media/set/?set=a.10150429377666488.415445.375116771487&type=3

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Monday, November 14, 2011

Did you know that it is now a misdemeanor to possess an unauthorized cell phone in a California prison?
In October 2011, Governor Edmund G. Brown signed SB 26 into law, making possession of a cell phone in prison and/or attempting to introduce one into prison a misdemeanor. The misdemeanor prosecution applies to staff, contractors and visitors who attempt to introduce unauthorized wireless devices into prisons. Penalties include a $5,000 fine per device, 6 months in jail, or both. Penalties for inmates include up to 90 days earned time credit forfeiture.
POSTED BY CDCR_STAR AT 2:48 PM