

EDWIN "ZAKEE" HUTCHISON
CDCR NO. P-68859 / HOUSING: 1-N-96L
1 MAIN STREET / CSP- SQ
SAN QUENTIN, CA 94974-0001

JUNE 9, 2019

TO: RESPECTED VIEWERS / FOLLOWERS

RE: RECENT EVENTS / REQUEST FOR "SUPPORT LET-
TERS" TO THE BOARD OF PAROLE HEARINGS

HELLO FRIENDS,

IT'S BEEN A WHILE SINCE MY LAST POSTING AS I
JUST RETURNED BACK TO SAN QUENTIN ON 06/05.
I WAS "OUT-TO-COURT" FOR MY "RESENTENCING
HEARING" IN L.A. SUPERIOR COURT WHERE I DID
HOPE TO OBTAIN MY PHYSICAL FREEDOM THROUGH
A "TIME SERVED" DECISION. HOWEVER, TO MY UT-
MOST DISMAY, THE JUDGE WHO SENTENCED ME TO
A PRISON TERM OF 30 YEARS TO LIFE UNDER THE
HORRIBLE "THREE STRIKES LAW", FOR A NON-
VIOLENT OFFENSE, COULD NOT FIND IT IN HIS
HEART TO RELEASE ME. HE ONLY SAW ME AS THE
SAME PERSON I WAS WHEN HE LAST VIEWED ME

1 Milena Blake, SBN 267318
2 THREE STRIKES PROJECT
3 Stanford Law School
4 559 Nathan Abbott Way
5 Stanford, California 94305-8610
6 Telephone: (650) 736-7757
7 Facsimile: (650) 723-8230

8 Attorney for Petitioner Edwin Hutchinson

9 IN THE SUPERIOR COURT OF CALIFORNIA
10 COUNTY OF LOS ANGELES

11
12 PEOPLE OF THE STATE OF
13 CALIFORNIA,

14 Plaintiff,

15 v.

16 EDWIN HUTCHINSON,

17 Defendant.

Case No. NA040270

(CDCR No. P68859)

EXPERT REPORT IN SUPPORT OF
RESENTENCING REQUEST BY
CDCR SECRETARY UNDER
PENAL CODE § 1170(d)

18 **TO: THE HONORABLE GARY J. FERRARI, JUDGE, SUPERIOR COURT OF**
19 **THE STATE OF CALIFORNIA AND THE DISTRICT ATTORNEY OF LOS**
20 **ANGELES COUNTY:**

21 Petitioner Edwin Hutchinson respectfully submits this this supplemental material in support
22 of his claim for resentencing relief under Penal Code section 1170(d). This supplemental pleading is
23 intended to update the Court on additional evidence developed since the last pleading in this case,
24 including an expert report by former California Department of Corrections and Rehabilitations
25 (CDCR) administrator and public safety expert Richard Subia, bolstering the resentencing
26 recommendation from CDCR Secretary Ralph Diaz and concluding that Mr. Hutchinson is "fully
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1 rehabilitated" and prepared for safe reentry to the community. Mr. Subia's report is filed herewith as
2 Exhibit P.

3 In light of all the evidence of Mr. Hutchinson's post-conviction rehabilitation, it follows that
4 "may be deemed outside the scheme's spirit, in whole or in part, and hence should be treated as though
5 he had not previously been convicted of one or more serious and/or violent felonies." *People v. Williams*,
6 17 Cal. 4th 148, 161 (1998); *see also In re Lawrence*, 44 Cal. 4th 1181, 1219 (2008) ("At some point . . .
7 when there is affirmative evidence, based upon the prisoner's subsequent behavior and current mental
8 state, that the prisoner, if released, would not currently be dangerous, his or her past offense may no
9 longer realistically constitute a reliable or accurate indicator of the prisoner's current dangerousness.")

11 **I. EXPERT RICHARD SUBIA CONCLUDES THAT MR. HUTCHINSON IS FULLY**
12 **REHABILITATED AND SAFE TO BE RELEASED FROM CUSTODY**

13 Richard Subia, a former prison officer, warden and administrator with over 25 years of
14 experience at CDCR, evaluated Mr. Hutchinson's record of rehabilitation, prison conduct, and future
15 prospects if released, submitted here as Exhibit P. Among other things, Mr. Subia asserts:

16 It is rare to encounter an inmate who has worked diligently in his activities
17 towards rehabilitation and personal transformation, including
18 commendations, evaluations, and recommendations from officers at all
19 levels of CDCR.

20 (Ex. P at 2.)

21 Mr. Subia is the former Director of the Division of Adult Operations for CDCR and in that role
22 was ultimately responsible for sentence recall recommendations under Penal Code section 1170(d). He
23 was employed by CDCR for 25 years as Correctional Officer, Correctional Captain, Warden, and
24 Deputy Director. He has been qualified as an expert witness in over 100 cases involving recidivism risk,
25 prison rules, regulations, and programming. He has testified both for defendants and for the government.

26 (Ex. P.)
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1 In preparing for his report, Mr. Subia reviewed Mr. Hutchinson's prison file, court file, probation
2 record, and criminal history and interviewed Mr. Hutchinson. Mr. Subia has evaluated hundreds of
3 prisoners for potential release and concludes that Mr. Hutchinson should be considered "fully
4 rehabilitated" and that he is a low risk to reoffend if resented by this Court. (*Id.*) According to an
5 analysis of cases reviews by Mr. Subia, none of the prisoners he has recommended for release have
6 reoffended. He explains as follows:
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8 Public safety is CDCR's first priority, and a recommendation for recall of
9 sentence applies in only the most exceptional and extraordinary
10 circumstances. By issuing his recall recommendation, Secretary Diaz has
11 officially recognized Mr. Hutchinson culminating in his recommendation
12 that his sentence be recalled and that he be resented. * * * *

13 My review concurs with the assessment of CDCR Secretary Diaz and
14 multiple layers of CDCR administration that Mr. Hutchinson has
15 demonstrated exceptional behavior that is beyond simply complying with
16 prison regulations and procedures such that he has changed as a person and
17 would be an asset to the community if released from custody. * * * *

18 Mr. Hutchinson has demonstrated a focus on making amends for his
19 victimization of the community and addressing his criminal thinking. His
20 accomplishments include participation in hundreds of hours of
21 rehabilitative programming related to life skills, personality transformation,
22 addiction recovery, and education. He has also developed exceptional work
23 habits that will not only help him succeed in the community but will make
24 him an asset to the community.

25 Mr. Hutchinson has shown unusual fortitude in abstaining from drugs and
26 alcohol, which have rampant availability and use within the institution. He
27 has demonstrated depth of character and insight by seeking out and
28 participating in as much rehabilitative programming as possible, despite its
frequent lack of availability to him within the institution. Additionally, he
has gained the trust of those who work with him on a daily basis who believe
that he would be an asset in the community. * * * *

By every measure, including statutory factors for suitability for parole, Mr.
Hutchinson has exceeded expectations and should be considered fully
rehabilitated. Mr. Hutchinson's record reflects a fundamental objective of
CDCR: enhancing public safety and encouraging prisoner rehabilitation.
Mr. Hutchinson's record is simply remarkable. He has served over two
decades in custody and has been selected among over 130,000 other CDCR

1 inmates for his sustained, exceptional conduct over that time. It is my
2 professional opinion that Mr. Hutchinson meets the criteria in Title 15
3 Section 3076(a)(1) and that his continued confinement no longer serves the
4 interest of justice. It is my opinion that he is fully rehabilitated and would
5 be an asset to the community if resentenced and released.

6 (Ex. P at 2, 23, 24, 35.)

7 In whole, Mr. Subia bases his conclusion on several factors:

- 8 • Mr. Hutchinson has participated in prison rehabilitative program to an extraordinary
9 degree
- 10 • Mr. Hutchinson never used drugs while in prison, despite rampant availability, signaling
11 his maturity and sincerity with regard to maintaining his sobriety.
- 12 • Mr. Hutchinson has an excellent prison disciplinary record, only receiving two rule
13 violations, noting this is exceptional given the length of his incarceration.
- 14 • Mr. Hutchinson is low risk on every available risk evaluation measure conducted by
15 CDCR.
- 16 • Mr. Hutchinson has several letters from prison officials who believe he is fully
17 rehabilitated and would be an asset to the community if released.

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1 CONCLUSION

2 For the foregoing reasons in this Supplemental pleading, plus the evidence and argument
3 contained in Mr. Hutchinson's original Brief, filed February 11, 2019, Mr. Hutchinson respectfully
4 submits that his current life sentence should be recalled and that he be resentenced to a determinate
5 sentence, pursuant to 1170(d)(1).
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8 Dated: May 20, 2019

9 Respectfully submitted,

10 THREE STRIKES PROJECT
11 Stanford Law School

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13 Milena Blake
14 Attorney for Edwin Hutchinson
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PROOF OF SERVICE

I, COURTNEY GARMA, declare that I am, and was at the time of the service hereinafter mentioned, at least 18 years of age and not a party to the above-entitled action. My business address is 559 Nathan Abbott Way, Stanford, CA, in Santa Clara County.

On May 20, 2019, I served the foregoing **EXPERT REPORT IN SUPPORT OF RESENTENCING REQUEST BY CDCR SECRETARY UNDER PENAL CODE § 1170(d)** by depositing copies in the United States mail at Stanford, California, with postage prepaid thereon, and addressed as follows:

Los Angeles County District Attorney
Attn: Laurie Castaneda
275 Magnolia Avenue, Suite 3195
Long Beach, CA 90802

Dated: May 20, 2019



Courtney Garma