

FILED

SEP 02 2020

JAMES M. KIM, Court Executive Officer
MARIN COUNTY SUPERIOR COURT
Bry M. Murphy, Deputy

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MARIN

IN THE MATTERS OF)

Self-represented: Javon Wise (SC213595), St.)

Michael Balzarini (SC213665), Phillip Morris)

(SC213667), William Earl Tolbert)

(SC213670), Derrick Bernard (SC213673),)

Terrance Varner (SC213674), Larry Williams)

(SC213692), Cedric Williams (SC213693),)

Jason Miller (SC213694), Daniel Smith)

(SC213695), Richard Johnson (SC213698),)

James Patrick Benson (SC213699), Gary)

Boston (SC213700), Kevin Sample)

(SC213701), David Jarrell (SC213702), Keith)

Walton (SC213703), Joseph Cormier)

(SC213704), Gregory Dixon (SC213706),)

William Barnhard (SC213707), Donald Edge)

(SC213709), Orlando Harris (SC213710),)

Donall Dunn (SC213711), Larry Climmons)

(SC213736), Roosevelt Johnson (SC213738),)

Lee Smothers (SC213739), Douglas Collier)

(SC213740), Kevin Demings (SC213742),)

**SAN QUENTIN CONSOLIDATED WRIT
PROCEEDING –GROUP No. 3 (In re
Harris, et al. SC213534)**

Case Nos.: SC213595, SC213665, SC213667,
SC213670, SC213673, SC213674, SC213687,
SC213688, SC213689, SC213692, SC213693,
SC213694, SC213695, SC213698, SC213699,
SC21370, SC213701, SC213702, SC213703,
SC213704, SC213706, SC213707, SC213709,
SC213710, SC213711, SC213736, SC213738,
SC213739, SC213740, SC213742, SC213743,
SC213744, SC213745, SC213746, SC213747,
SC213748, SC213749, SC213750, SC213752,
SC213753, SC213773, SC213772, SC213771,
SC213770, SC213769, SC213768, SC213767,
SC213766, SC213765, SC213764, SC213763,
SC213762, SC213761, SC213757, SC213756,
SC212822, SC213796, SC213797, SC213798,
SC213799, SC213800, SC213801, SC213802

ORDER TO SHOW CAUSE No. 2

1 Robert Morales (SC213743), David Tarvan)
2 (SC213744), Angel Alvarez (SC213745),)
3 Kelvin Ross (SC213746), Hau Chan)
4 (SC213747), Jemain Hunter (SC213748),)
5 Andrew Hardy (SC213749), Dwayne Jones)
6 (SC213750), Monte Reed (SC213752), Eric)
7 Post (SC213753), Richard Gillkellum)
8 (SC213773), Carlos Smith (SC213772),)
9 Malcom Nettles (SC213771), Burley)
10 Vanderpool (SC213770), Jason Robinson)
11 (SC213769), John Krueger (SC213768),)
12 Walter Cook (SC213767), Robert Cole)
13 (SC213766), Diontae Wright (SC213765),)
14 Charles Glasper (SC213764), Troy Whiteley)
15 (SC213763), Kenneth Cooper (SC213762),)
16 Michael Ludlam (SC213761), George Derrick)
17 (SC213756), Cody Adam Brown (SC213799),)
18 Anthony Arrington (SC213800), Vaughn)
19 Winslow (SC213801), Calvin Stevens)
20 (SC213802), Timothy Young (SC212822))
21 **Represented:** Thaddeus Hamilton)
22 (SC213687), Timothy Hicks (SC213688),)
23 Oscar Acosta (SC213689), Randall Stovall)
24 (SC213757), Michael Oryall (SC213796),)
25 Kurt Vonstaden (SC213797), George Yacoub)

1 (SC213798))
2)
3 Petitioners,)
4 FOR WRIT OF HABEAS CORPUS.)
5)

6
7 This order concerns 63 new petitions for a writ of habeas corpus related to the COVID-19
8 outbreak at San Quentin State Prison. The court previously consolidated over 200 similar
9 petitions in three groups – Consolidation Group 1, Consolidation Group 2 and Consolidation
10 Group 3.

11 The current set of petitions, like the ones that preceded them, take different forms and do
12 not always perfectly check off all procedural requirements for a petition for writ of habeas
13 corpus. Regardless, each petition raises the same essential issue of whether Respondent has
14 violated petitioners’ rights to be free from cruel and unusual punishment – specifically related to
15 the COVID-19 outbreak at the prison – as guaranteed by the Eighth Amendment to the United
16 States Constitution and the California Constitution, Article 1, Section 17.

17 As it did with the earlier petitions, the court will now, for purposes at least of this Order
18 to Show Cause, consolidate this new group of petitions into the existing Group 3 (*In re Harris, et*
19 *al.*). At this stage, the petitions appear primarily to involve common questions of law and fact.
20 They allege virtually identical facts relating to the conditions at San Quentin and the conduct by
21 CDCR that has exposed the prison population there to COVID-19. Some differences are
22 apparent from the petitions, such as the specific housing of a particular inmate or the inmate’s
23 medical condition. However, the common questions of law and fact appear to predominate such
24 that “in the interest of efficiency and in light of public health concerns” it is appropriate to
25 consolidate the petitions in a single proceeding, at least at this stage. (*California Attorneys for*
Criminal Justice v. Newsom) (Cal., May 13, 2020, No. S261829) 2020 WL 2568388, at *2; Code

1 Civ. Proc. §1048(a).) The court may add additional petitions to Group 3 that arrive at the court
2 in advance of the briefing schedule set forth below. In addition, the court will consider any
3 requests or objections from any party regarding further consolidating what are now effectively
4 three groups of consolidated petitions for further proceedings.

5 ***Order to Show Cause and Schedule:*** The urgency of the issues involved in this Petition
6 constitutes good cause to modify the usual timeline for filing a return and traverse. (CRC
7 4.551(h).) Respondent is ordered to show cause why the court should not grant the relief
8 requested in the petitions or other appropriate relief to address the allegations in the petitions.
9 Respondent shall file a return to the petitions no later than September 21, 2020. Petitioners may
10 file a traverse no later than October 19, 2020. The return shall address any procedural issues
11 raised by the petitions, as well as the merits of the due process claims. In addition to any other
12 response submitted, the parties shall address (a) the anticipated impact of the publicly announced
13 release of certain prisoners; (b) the effect any similar or parallel proceedings in the federal courts
14 or state courts may have on this proceeding; (c) whether the authorities cited in the petitions
15 provide any basis for relief, or whether other authority does, (d) any procedural proposals the
16 parties may have subsequent to the filing of the traverse, including a case management
17 conference or other proceedings, and (e) whether these petitions should be consolidated with the
18 Group 1 (*In re Michael Hall*) and Group 2 (*In re Sommons*) cases already consolidated by the
19 court or should proceed as their own group on a separate timeline.

21 The parties are directed to submit electronic courtesy copies of all filings to
22 writs@marin.courts.ca.gov. (Note that previous orders erroneously specified
23 writ@marin.courts.ca.gov. The correct email is writs@marin.courts.ca.gov.) **Each pleading**
24 **must be captioned with “San Quentin Consolidated Writ Proceeding – Group No. 3” above**
25 **the case number.**

MARIN COUNTY SUPERIOR COURT

3501 Civic Center Drive
P.O. Box 4988
San Rafael, CA 94913-4988

IN THE MATTERS OF:

IN RE DONTAYE HARRIS, ET AL (SC213534)

CASE NO. SAN QUENTIN CONSOLIDATED
WRIT PROCEEDING
GROUP NO. 3

**PROOF OF SERVICE BY
FIRST CLASS MAIL AND BY EMAIL**

Code of Civil Procedure Sections 1013a and 2015.5

I am an employee of the Marin County Superior Court. I am over the age of 18 years and not a party to this action. My business address is 3501 Civic Center Drive, Hall of Justice, San Rafael, California.

On September 3, 2020, I served the following document(s): **ORDER TO SHOW CAUSE NO. 2** in said action to all interested parties, by placing the envelope for collection and mailing on the date shown thereon, so as to cause it to be mailed on that date following standard court practices. I am readily familiar with the court's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

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

JAMES M. KIM
Court Executive Officer

Executed at San Rafael, California
On: September 3, 2020

By: 
M. MURPHY, DEPUTY