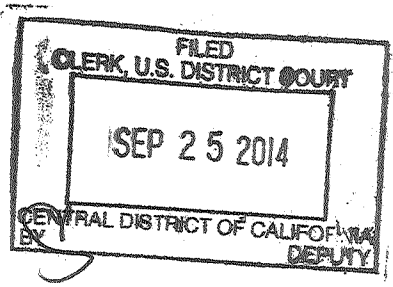


MC-275

Name James Hall
 Address SQSP/5N74J
San Quentin, CA
94964
 CDC or ID Number #H-53969



Fee Due

CALIFORNIA
SUPREME COURT
 (Court)

Petition For Writ of MANDATE
 PETITION FOR WRIT OF HABEAS CORPUS

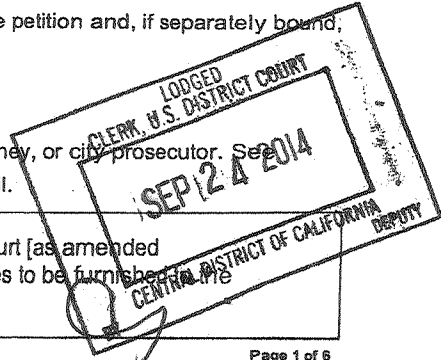
James Hall
 Petitioner
 vs.
Kevin Chappell, SQ - Warden
 Respondent

CV 14-7487 JUS PLA
 (To be supplied by the Clerk of the Court)

INSTRUCTIONS—READ CAREFULLY

- If you are challenging an order of commitment or a criminal conviction 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."
- If you are filing this petition in the Superior Court, you need file only 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 and four copies of the petition and, if separately bound, one copy of any supporting documents.
- If you are filing this petition in the California Supreme Court, file the original and ten copies of the petition and, if separately bound, two copies of any supporting documents.
- Notify the Clerk of the Court in writing if you change your address after filing your petition.
- In most cases, the law requires service of a copy of the petition on the district attorney, city attorney, or city prosecutor. See Penal Code section 1475 and Government Code section 72193. You may serve the copy by mail.



Approved by the Judicial Council of California for use under rule 8.380 of the California Rules of Court [as amended effective January 1, 2007]. 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 sentence
- Credits
- Jail or prison conditions
- Prison discipline

Other (specify): Attorney conduct

1. Your name: James Sean Hall
2. Where are you incarcerated? SQSP
3. Why are you in custody? Criminal Conviction Civil Commitment

Answer subdivisions 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").

2nd degree murder

b. Penal or other code sections: § 187

c. Name and location of sentencing or committing court: santa Barbara superior court

d. Case number: 192281

e. Date convicted or committed: 10-26-92

f. Date sentenced: " "

g. Length of sentence: 15 to life

h. When do you expect to be released? Unknown

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

William Duval

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

6. GROUNDS FOR RELIEF

Ground 1: State briefly the ground on which you base your claim for relief. For example, "the trial court imposed an illegal enhancement." (if you have additional grounds for relief, use a separate page for each ground. State ground 2 on page four. For additional grounds, make copies of page four and number the additional grounds in order.)

Superior Court Judge appointed counsel (twice) to represent me, and both times the two attorneys failed to do their job; I was deprived of due process.

a. Supporting facts:

Tell your story briefly without citing cases or law. If you are challenging the legality of your conviction, describe the facts upon 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 available, attach declarations, relevant records, transcripts, or other documents supporting your claim.)

(see attached pages)

b. 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.)

James Hall #H-53969
SQSP/6N740
San Quentin, CA
94964

Case No. B255141

In December of 2012, Petitioner filed a writ in Santa Barbara Superior Court regarding the BPH's denial of my parole - on 7/10/12; when there was no response, I wrote the Court, in May of 2013, to get the status of my case, and the Honorable Judge (Brian Hill) said the writ had been denied - mainly because the hearing transcripts weren't included in documents. Therefore, I submitted the hearing minutes; Judge Hill issued an OSC (6-25-13), and appointed Santa Barbara PDO - see Exhibit A. After a lapse, I again wrote the Court, in March of 2014, to ask about case's status; was informed the Court had denied my request for relief, as the PDO hadn't acted on my behalf (unbeknownst to Judge Hill), also, because my psyche reports were missing from documents submitted to Court, and He needed these to make a determination about my hearing testimony. (See Exhibit B).

[Note: In 1992, there was a conflict of interest w/SB Co. PDO for my case, as Dennis Halligan's ex-wife (Emily Dewberry Lawson) worked in that office, so William Duval was appointed as my counsel. That said, seeing as how the PDO neglected to do their due diligence on instant issue, it's apparent the conflict still exists and harmed my show cause effort.]

I promptly sent the documents, and asked Judge Hill to grant my case a reconsideration - as PDO had made a fatal flaw under Duval - but, after a few weeks, I figured the Court saw my case as moot, and I filed in 2nd Appellate Court. However, (on 4-01-14) Judge Hill Granted a reconsideration - see Exhibit C - and appointed a private attorney (Douglas Russell Hayes) to file a traverse to A.G.'s motion to dismiss. When I was informed about reconsideration being granted, I sent a letter to the 2nd Appellate Court asking them to hold my case in abeyance pending the Superior Court's decision. I received notification from Hayes that he believed the Judge (who appointed him) had no jurisdiction to grant a reconsideration; Hayes wanted me to cede my

pro per status; on 5-15-14, I told Hayes via the phone - to present my case in court which he was appointed. Nonetheless, Hayes failed to do his job, and my case remained unresolved.

On two occasions the court deemed my argument was compelling enough to appoint counsel; neither completed their duties. I pray this court will order appointed counsel (Douglas Russell Hayes) to: file traverse; serve me w/copy of defendant's answer; perform all duties needed to prosecute my habeas corpus in the Superior Court.

9-22-14

James James Hay

8. 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 Dept. of Superior Court"):

b. Result _____ c. Date of decision: _____

d. Case number or citation of opinion, if known: _____

e. 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:

9. 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. Issues raised: (1) _____

(2) _____

(3) _____

10. 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:

11. 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 Muszalski* (1975) 52 Cal.App.3d 500 [125 Cal.Rptr. 286].) Explain what administrative review you sought or explain why you did not seek such review:

No administrative review available

b. Did you seek the highest level of administrative review available? Yes. No.

Attach documents that show you have exhausted your administrative remedies.

James Hall
SQSP/5N74U
In pro per

JAMES HALL, PETITIONER

V

MATTHEW CATE, RESPONDENT

CASE#

WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY PURSUANT TO TITLE 28 US CODE SECTION 2254

I. PETITIONER'S STATE/FEDERAL CONSTITUTIONALLY PROTECTED DUE PROCESS RIGHT TO RELEASE FROM CUSTODY IS BEING VIOLATED BY PRISON OFFICIALS AS THEY ARE CONTINUALLY EXTENDING MY SENTENCE BY USING ALLEGED PSYCHOLOGICAL FACTORS WITHOUT AFFORDING MANDATORY SAFEGUARDS PURSUANT TO STATUTE

Petitioner was committed to the CDC(in 1992) for 2nd degree murder; I've always accepted responsibility for my crime and have served the sentence. I was sentenced under DSL (PC 1170), which carries a base term of 15 years; the DSL proscribes the purpose of incarceration is "punishment," not rehabilitation as it is under ISL. Pursuant to PC 2931, 2933, & 2934, my term expired in 2002, due to day-for-day credits.

The BPH has employed a parole policy where very few inmates are released; this violates intent of penal code which states prisoners "shall normally" have their term fixed one year before their MEPD; this didn't occur in my case. Due to litigation, many of the BPH's extremely subjective reasons for a 90+% denial rate have been disallowed; yet, now the BPH

administratively wields “psychological factors” to resentence people with-out adhering to requisite criteria to use said factors.

Pursuant to PC 2966(a), I requested to have the BPH conduct a hearing (see Exhibit A), after my (7-10-12) denial was final on 11-07-12, because I don’t meet any of the criteria set forth (in CCR, Title 15, Div.2, 2402(C) (5)) to categorize me as having a “severe” psychological disorder. Since I don’t have a mental disorder, the BPH is violating my procedural protections, as the panel hasn’t proved: (1) I’ve not only got a “severe” mental disorder, but a “lengthy” one; (2) additionally, these severe/lengthy problems are related to my offense. Moreover, my psychological condition wasn’t a determining factor at the time of my trial/sentencing, as I was committed for a criminal offense; notwithstanding this, I currently find myself serving a psychiatric commitment, as evidenced by the panel alleging that further incarceration is warranted because I lacked insight, minimized my role in prior crimes/life offense by failing to take full responsibility for convictions.

I incorporate into my argument a US Supreme Court case- **Washington V Harper** (2010) 494 U.S. 210, 212-which clarified a state can’t legally imprison someone for a criminal offense; then, keep the person incarcerated past their release date by classifying “him as mentally ill and subject him to involuntary treatment without affording” additional due process protection. I am guaranteed procedural protections for this instant matter by California PC 2960-2980 if the state opts to use any mental issues like, “insight” /”minimization” to extend my sentence (see **Boultier V Immigration and Naturalization Service** (1967) 87 U.S. 118, 125).

I am not sentenced under ISL, which was repealed in 1977, as my offense/sentence occurred in 1992; thus, only a Court can set a length of punishment- according to PC 12 & 13- and, the Court must set certain limits: meaning I have an aggregate term of 15 years.

My Maximum Release Date was in 2007, as set forth in CCR, Title 15, 2000(b)(64). My Base Term/MRD were set by the sentencing Court; so, the BPH should've released me, since there is no evidence to support the assumption the panel based their denial on. PC 13 states the Court must select the length of term. There's no relevant/reliable information, regarding my past & present mental state, to substantiate that I have a history of severe mental problems which prove I am a current danger, risk, or threat to society (see CCR 2402(b)). 2402 & 2962 both define what a severe mental disorder is; these sections proscribe a person must be released if disorder can be kept in remission. Though I meet none of the criteria in "psychological factors" statute, since I've never been under psychiatric care, or taken medication to remedy a mental disorder, the panel has arbitrarily classified me as a MDO, like they have in the case of thousands of inmates, to deny me/others with a No Parole Policy.

The CDCR is now one of the largest mental institutions in the world, where many of the prisoners are either under psychiatric care, or taking psychotropic medication. However, most of these inmates aren't MDOs; rather, have anxiety or depression. That being said, it's illegal to confine people to mental institutions because of financial/political expedience (see Thomas S. III (1988)699 F. Supp. 1178, 1196; Thomas S. V Morrow 781 F.2d 367, 375 (4th Cir. 1986)). The BPH shouldn't be permitted to do a statutorily unauthorized "end run" simply to achieve a result they deem is warranted, though this what is occurring, as prison officials are ignoring procedural safeguards to make me a MDO and perpetuate my incarceration indefinitely with factors that don't apply to me (see Cuccia V Superior Court (2ndDist.2007) 153 Cal. App. 347). In Washington V Harper(2010) 494 U.S. 210, 212 the US Supreme Court elaborated on this issue- while a conviction/sentence extinguish a person's right to freedom for duration of

term, it doesn't authorize the state to subject me to involuntary mental treatment without due process protection.

The CDCR/BPH employs psychologists/psychiatrists to conduct forensic evaluations on inmates who attend suitability hearings; I've received LOW-TO-MODERATE & MODERATE assessments by these underwriters. (see psych reports exhibit).

Despite favorable assessments, the BPH uses vague and indefensible reasons to deny my parole, while failing to address my written request-see Exhibit A-even though section 2962 states "the board shall conduct a hearing if so requested, for the purpose of proving that the prisoner meets the criteria." Due process mandates the BPH must give me a hearing in order to use psychological factors; if I disagree with conclusion the panel alleges, I am entitled to court adjudication to remedy the issue per PC 2966.

Legally, being designated as MDO means someone has "severe mental" problems, which entitles them to safeguards set forth in PC 2960-2980 (i.e., being appointed a hearing attorney, having a jury trial that finds (without a reasonable doubt) clear & convincing evidence, after being reviewed by two psychiatrists- who aren't CDCR/BPH employees- that I've got a severe mental disorder). A severe mental disorder hasn't been proven to be the cause of my life crime, or an aggravating factor of it; as such, there's no reason for me to still be imprisoned six years past my MRD, since I don't have a disease/disorder that substantially impairs my thought/perception of reality or my behavior, or an acute brain syndrome for which prompt remission in the absence of treatment is unlikely(see PC 2962(a)).

Even though I've no history of assaultive attitudes or behavior during the 20 plus years in the CDCR, the BPH is now using purely subjective criteria to prolong

my incarceration, the panel has labeled me a MDO, and I am being kept for unproven psychological factors. The Federal Constitution guarantees me due process protections against this abuse of discretion by state officials; as such, I humbly request that this Honorable Court prohibits the CDCR/BPH from using any ~~hypothetical~~ factors henceforth.

VERIFICATION

I, James Hall, declare under penalty of perjury the foregoing is true/correct and this declaration was executed @SQSP IN Marin County.

Respectfully Submitted,

James Hall, petitioner representing self under disability of imprisonment.

Note: The CDCR/BPH employs psychologists/psychiatrists to do evaluations on life-term inmates; the Forensic Assessment Division doctors use very subjective tools on prisoners.

That being said, the two doctors who conducted my last three evaluations had very favorable comments about me: 1) In 2002, Joe Reed, Ph.D., said, I showed "No evidence of mood or thought disorder" (p.4); my "current level of insight and judgment in general and specifically regarding his commitment offense is very good and supports a positive prediction of successful adaptation to community living" (p.4); "He admits full responsibility for the death of the victim" (p.4); Dr. Reed gave me a low-to-moderate assessment rating; also, said I have no mental health disorder

2) In 2012, Richard Hayward, Ph.D., who has done my last two evaluations, said: "There were no signs of depression or mood disorders" (p.2); I had "no history of mental treatment prior to or during his incarceration" (p.2); I "demonstrate increased understanding of the salient factors that contributed to the murder including his alcohol dependence" (p.5); I "accepted full responsibility for the murder" (p.6); Hayward gave me a moderate assessment - overall (p.6).

CASE NO. 1429045

I am writing to you today in hopes that you will reconsider and rescind your order denying petitioner HALL's petition for a writ of habeas corpus for good cause and based upon the following reasons:

1. This court issued an Order to show cause based upon Mr. Hall's pleadings; and unfortunately for Mr. Hall, appointed the local Public Defenders Office (P.D.O.) whom:
 - A.) Failed to notify this court that the P.D.O. previously opted out of this case, during trial, due to a "conflict of interest" because Mr. Halligan (The Victim's) wife worked at or with the P.D. office.

This fact should have been disclosed to the court.

- B.) The P.D.O. did not obtain and introduce any material documents that showed the panel's findings and decision based thereon was inappropriate.

For example: Mr. Hall's "reasons for committing the crime

Thus, this court did not get to "consider" the petition, with exhibits attached because they were lost in the mail; or the evidence and information considered by the Board (B.P.H.). (see Order p. 1:21-22)

- C.) Most importantly, The P.D.O. fatally

did not file a traverse, because under DUAL petitioner fails to establish critical issues of material fact.

Moreover, the P.D.O. did not even collaborate or consult with Mr. Hall in regards to the B.A.H.'s return; and The P.D.O. did not even send petitioner Hall a copy of the return.

Mr. Hall has been sitting in limbo and reg-
Vested some status report. He received
No notice on the status. He received the denial
that was filed Feb. 18, 2014, on Feb. 26, 2014.

D.) Assuming this court relied on Rosenkrantz and Powell's "some evidence" standard, as cited, petitioner would argue that those cases apply the some evidence standard if and after it also found there were no arbitrary findings upon which the decision is based. In re Powell, elucidated the decision can not stand upon arbitrary findings of fact. This court ruled that petitioner Hall did not minimize his prior criminal conduct, as the board arbitrarily found to base its decision. (see Id., p. 6-17)

Similarly the Board erroneously based its decision upon a base Hall minimized the murder into a "self-defense". (see Transcript p. 123: 21-25) Mr. Hall pled guilty to Second degree Murder; this court ruled Hall never claimed self-defense and discussing the established facts that legally militate or mitigate the "circumstances" (see Title 15 § 2403) of the base term does not mean a prisoner is minimizing the Murder.

Thus, another arbitrary base for the decision.

2) This Court appears to rely upon Shaputis. (Id., 10 p. 10:2-4.) A "lack of insight" case.

In Shaputis, and the court elucidates "An inmate's inability to gain insight into his life crime and anti-social behavior, despite years of therapy and rehabilitative programming, can provide some evidence in support of the conclusion that he remains dangerous and unsuitable for parole." (Id., 10:2-5)

Petitioner is factually distinguishable from Shaputis. Shaputis was diagnosed with Borderline Personality disorder. Petitioner is not. Shaputis had years of therapy specifically designed to treat the condition. Hall utilized self-help and counseling for Addiction. Hall does not meet the criteria for mental health treatment needs. More importantly, despite all the treatment, Shaputis was "unable" to "gain insight". Mr. Hall has gained and increased his insight at each subsequent evaluation and hearing. Shaputis was clearly in denial of clear material facts. He was a happy drunk, who did not have a problem.

Mr. Hall admits many flaws, including alcohol addiction, he learned strategies, and used them to change his negative personality traits into positive mindful characteristics and values. Mr. Hall turned toxic into life skills.

What is actually happening is that Mr. Hall was not as articulate, or "polished," as the Board or the court would prefer. However, that does not make Hall dangerous.

The Court adroitly found the Board seized on petitioner's use of the word "fear" as opposed to "angry" for committing the life crime and virtually omits or discounts Mr. Hall's claim that he felt fear and that turned to anger in the hearing.

The Court would have preferred or expected Mr. Hall to "make a rational connection among his fear, his anger and his actions". (Id., p. 12: 3-4)

Is this expectation an insight issue or an articulation issue?

Mr. Hall said he felt fear, felt angry, when he saw the knife, during the struggle, when he hit his head. His feelings and what he saw and thought at each second are insight.

His statements about what happened are his articulation. Mr. Hall was not asked about his thoughts and emotional changes or feelings at each second of the argument, confrontation with the knife, at each defensive punch, when Mr. Hall got a swipe with the knife at Mr. Hall, when Mr. Hall tripped and fell, hit his head, the struggle, getting the upper hand, and the actual stabbing. Each of those moments, reasonably had thought processes and emotional responses. Those are insight.

Mr. Hall was asked about the crime as a general whole. Hall was drunk. He pieced together what he comes to realize or believe happened. Thus, he may not actually know or recall every thought or emotion in such a traumatic event with a rational connection based upon certainty. Who could?

Moreover, Mr. Hall was specifically taught in A RC that Anger is a secondary emotion stemming from Fear, Hurt, and Judgements. Based upon these scientific insights he "gained" and "internalized" after he wrote his reasons for indicates improvement, Not discrepancies or a failure to "realize" the causative factors of his crime or criminality.

Habeas corpus is to find the truth (Duvall)

3.) The panel also indicated his violence prevention plan was not personalized.

Considering the document specifically provides Mr. Hall's triggers, Not the dozen typical triggers, and his coping strategies, Not the 20 common ones.

Along with his personal "time line" of angry events. (see ex. , attached and incorporated herein) clearly demonstrate

The panel's finding or basis for the decision is clearly arbitrary and must be vacated, and ordered to hold a new hearing that comports with due process of law. (In re Lee)

Conclusion

There is no reliable "evidence" Mr. Hall currently poses an unreasonable risk of danger under the statute and Regulations.

12. Other than direct appeal, have you filed any other petitions, applications, or motions with respect to this conviction, commitment, or issue in any court? Yes. If yes, continue with number 13. No. If no, skip to number 15. MC-275

13. a. (1) Name of court: santa Barbara superior court
(2) Nature of proceeding (for example, "habeas corpus petition"): habeas corpus petition
(3) Issues raised: (a) I have adequate insight
(b) Am not a danger to society
(4) Result (Attach order or explain why unavailable): reconsideration hearing granted
(5) Date of decision: 4-01-14

b. (1) Name of court: 2nd Appellate court
(2) Nature of proceeding: Appealing superior court's initial denial
(3) Issues raised: (a) BPH's in error claiming I lack insight minimized/failed to take full responsibility for prior criminality; I am a current threat to society.
(b) The COCA/BPH is using psyche issues to prolong my term w/out due process.
(4) Result (Attach order or explain why unavailable): sent to appointed counsel
(5) Date of decision: July of 2014

c. For additional prior petitions, applications, or motions, provide the same information on a separate page.

14. If any of the courts listed in number 13 held a hearing, state name of court, date of hearing, nature of hearing, and result:
reconsideration hearing granted; counsel was appointed.
Taken off calendar due to counsel's inaction.

15. Explain any delay in the discovery of the claimed grounds for relief and in raising the claims in this petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.)
Files in timely manner
Any delay is due to awaiting being informed by court or counsel regarding status of case - otherwise, timely response.

16. Are you presently represented by counsel? Yes. No. If yes, state the attorney's name and address, if known:
Douglas Russell Hayes - 125 E. Victoria St., Suite H
santa Barbara, CA 93101

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

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

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: 9-22-14

James Jean Hall
(SIGNATURE OF PETITIONER)

EXHIBIT 1

contemporary culture is bourgeois culture: a mistake that everyone, from Conservatives to Marxists, seems to make. There is a distinct working-class way of life, which I for one value — not only because I was bred in it, for I now, in certain respects, live differently. I think this way of life, with its emphases of neighbourhood, mutual obligation, and common betterment, as expressed in the great working-class political and industrial institutions, is in fact the best basis for any future English society. As for the arts and learning, they are in a real sense a national inheritance, which is, or should be, available to everyone. So when the Marxists say that we live in a dying culture, and that the masses are ignorant, I have to ask them, as I asked them then, where on earth they have lived. A dying culture, and ignorant masses, are not what I have known and see.

What I had got from the Marxists then, so far, was a relationship between culture and production, and the observation that education was restricted. The other things I rejected, as I rejected also their third point, that since culture and production are related, the advocacy of a different system of production is in some way a cultural directive, indicating not only a way of life but new arts and learning. I did some writing while I was, for eighteen months, a member of the Communist Party, and I found out in trivial ways what other writers, here and in Europe, have found out more gravely: the practical consequences of this kind of theoretical error. In this respect, I saw the future, and it didn't work. The Marxist interpretation of culture can never be accepted while it retains, as it need not retain, this directive element, this insistence that if you honestly want socialism you must write, think, learn in certain prescribed ways. A culture is common meanings, the product of a whole people, and offered individual meanings, the product of a man's whole committed personal and social experience. It is stupid and arrogant to suppose that any of these meanings can in any way be prescribed; they are made by living, made and remade, in ways we cannot know in advance. To try to jump the future, to pretend that in some way you *are* the future, is strictly insane. Prediction is another matter, an offered meaning, but the only thing we can say about culture in an England that has socialized its means of production is that all the channels of expression and communication should be cleared and open, so that the whole actual life, that we cannot know in advance, that we can know only in part even while it is being lived, may be brought to consciousness and meaning.

Leavis has never liked Marxists, which is in one way a pity, for they know more than he does about modern English society, and about its immediate history. He, on the other hand, knows more than any Marxist I have met about the real relations between art and experience. We have all learned from him in this, and we have also learned his version of what is wrong with English culture. The diagnosis is radical, and is rapidly becoming orthodox. There was an old, mainly agricultural England, with a traditional culture of great value. This has been replaced by a modern, organized, industrial state, whose characteristic institutions deliberately cheapen our natural human responses, making art and literature into desperate survivors and witnesses, while a new mechanized vulgarity sweeps into the centres of power. The only defence is in education, which will at least keep certain things alive, and which will also, at least in a minority, develop ways of thinking and feeling which are competent to understand what is happening and to maintain the finest individual values. I need not add how widespread this diagnosis has become, though little enough acknowledgement is still made to Leavis himself. For my own part, I was deeply impressed by it;

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA

JUN 25 2013

Darrel E. Parker, Executive Officer
BY ~~Esteban Enriquez, Deputy Clerk~~

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA BARBARA

James Sean Hall,
Petitioner,

v.

Kevin Chappell, Warden, San Quentin State
Prison.

Case No.: 1429045

ORDER TO SHOW CAUSE RE: PETITION
FOR WRIT OF HABEAS CORPUS; AND
APPOINTING THE OFFICE OF THE
PUBLIC DEFENDER OF SANTA
BARBARA COUNTY TO REPRESENT
PETITIONER

On May 31, 2010, petitioner James Sean Hall filed his petition for writ of habeas corpus challenging the Board of Parole Hearings' denial of parole after a hearing held on July 20, 2012. The nominal defendant is the warden of San Quentin State Prison. The real party in interest is the California Board of Parole Hearings.

The court has considered the petition, the evidence and information considered by the Board of Parole Hearings and petitioner's arguments and authorities. The court finds that petitioner has stated facts, supported in the record, which, if true, would warrant relief in habeas corpus. Therefore, the court orders the California Board of Parole Hearings to show cause why the court should not grant the relief requested in the petition and remand the matter for another hearing before the Board of Parole Hearings.

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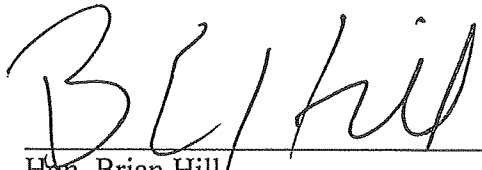
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The court appoints the Office of the Public Defender of Santa Barbara County to represent petitioner James Sean Hall in this proceeding.

DATED:

6/25/13



Hon. Brian Hill
Judge of the Superior Court

EXHIBIT B

disseminated the argot, in an attempt to influence ordinary people — who because they do real work have real standards in the fields they know — against real standards in the fields these men knew and have abandoned. The old cheapjack is still there in the market, with the country boys' half-crowns on his reputed packets of gold rings or watches. He thinks of his victims as a slow, ignorant crowd, but they live, and farm, while he coughs behind his portable stall. The new cheapjack is in offices with contemporary *décor*, using scraps of linguistics, psychology and sociology to influence what he thinks of as the mass mind. He too, however, will have to pick up and move on, and meanwhile we are not to be influenced by his argot; we can simply refuse to learn it. Culture is ordinary. An interest in learning or the arts is simple, pleasant and natural. A desire to know what is best, and to do what is good, is the whole positive nature of man. We are not to be scared from these things by noises. There are many versions of what is wrong with our culture. So far I have tried only to clear away the detritus which makes it difficult for us to think seriously about it at all. When I got to Cambridge I encountered two serious influences which have left a very deep impression on my mind. The first was Marxism, the second the teaching of Leavis. Through all subsequent disagreement I retain my respect for both.

The Marxists said many things, but those that mattered were three. First, they said that a culture must be finally interpreted in relation to its underlying system of production. I have argued this theoretically elsewhere — it is a more difficult idea than it looks — but I still accept its emphasis. Everything I had seen, growing up in that border country, had led me towards such an emphasis: a culture is a whole way of life, and the arts are part of a social organization which economic change clearly radically affects. I did not have to be taught dissatisfaction with the existing economic system, but the subsequent questions about our culture were, in these terms, vague. It was said that it was a class-dominated culture, deliberately restricting a common inheritance to a small class, while leaving the masses ignorant. The fact of restriction I accepted — it is still very obvious that only the *deserving* poor get much educational opportunity, and I was in no mood, as I walked about Cambridge, to feel glad that I had been thought deserving; I was no better and no worse than the people I came from. On the other hand, just because of this, I got angry at my friends' talk about the ignorant masses: one kind of Communist has always talked like this, and has got his answer, at Poznan and Budapest, as the imperialists, making the same assumption, were answered in India, in Indo-China, in Africa. There is an English bourgeois culture, with its powerful educational, literary and social institutions, in close contact with the actual centres of power. To say that most working people are excluded from these is self-evident, though the doors, under sustained pressure, are slowly opening. But to go on to say that working people are excluded from English culture is nonsense; they have their own growing institutions, and much of the strictly bourgeois culture they would in any case not want. A great part of the English way of life, and of its arts and learning, is not bourgeois in any discoverable sense. There are institutions, and common meanings, which are in no sense the sole product of the commercial middle class; and there are art and learning, a common English inheritance, produced by many kinds of men, including many who hated the very class and system which now take pride in consuming it. The bourgeoisie has given us much, including a narrow but real system of morality, that is at least better than its court predecessors. The leisure which the bourgeoisie attained has given us much of cultural value. But this is not to say that

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA

MAR 26 2014

Darrel E. Parker, Executive Officer
BY S. Villalta, Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA BARBARA

James Sean Hall,

Petitioner,

v.

Kevin Chappell, Warden, San Quentin State
Prison

Respondent.

Case No.: 1429045

ORDER ON MOTION TO RECONSIDER
ORDER DENYING PETITION FOR WRIT
OF HABEAS CORPUS

On May 31, 2013, petitioner James Sean Hall filed his petition for writ of habeas corpus challenging the Board of Parole Hearings' denial of parole after a hearing held on July 20, 2012. The nominal defendant is the warden of San Quentin State Prison. The real party in interest is the California Board of Parole Hearings (BPH).

On June 25, 2013, the court issued an order to show cause why it should not grant the petition and appointed the Santa Barbara County Public Defender to represent Hall. On September 13, 2013, real party in interest BPH filed a return. The Public Defender did not file a reply. On February 18, 2014, the court entered an order denying the petition.

On March 12, 2014, petitioner filed a letter with the court in which he seeks reconsideration of the court's order. The court treats that letter as a motion for reconsideration. For reasons stated below, the court grants petitioner's motion and will reconsider its order denying the petition. The court sets this matter for hearing on April 1, 2014, at 8:30 a.m. in Department 2 of this court. The Public Defender shall appear at this hearing.

1 **Motion for Reconsideration**

2 In the motion for reconsideration, petitioner raises issues regarding the Public Defender's
3 role in this case. Petitioner states: 1) The Public Defender's office had recused itself from his
4 original trial back in 1992 because the victim was related to someone employed by that office. 2)
5 The Public Defender never contacted petitioner after the court appointed the Public Defender in
6 this case. 3) Petitioner asked the Public Defender for a status report and heard nothing. 4) The
7 Public Defender never sent petitioner the BPH's return, which was served only on the Public
8 Defender, counsel of record pursuant to the court's order.

9 In its order denying the petition, the court commented that certain documents were not
10 provided (e.g., subsequent risk assessments, petitioner's relapse prevention plan). Petitioner says
11 the Public Defender did not point out that anything was missing from his petition. He provides
12 those documents now and they do contain useful information. (Two pages of these documents
13 are still missing: page 6 of the 2012 Subsequent Risk Assessment of Richard Hayward, Ph.D.;
14 page 3 of the handwritten document entitled "Reasons I Committed My Crime.")

15 **Petition for Writ of Habeas Corpus in Appellate Court**

16 On March 26, 2014, petitioner filed a petition for writ of habeas corpus with the Court of
17 Appeal, Second District, Division Six, Case No. B255141. That court asked this court to provide
18 a copy of the order denying the petition filed here. This court provided a copy of that order.

19 **ORDER:**

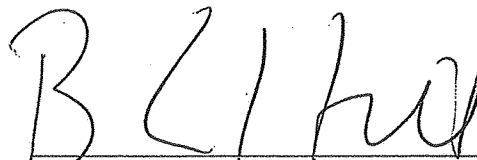
- 20 1. The court grants petitioner James Sean Hall's petition for reconsideration and will
21 reconsider its ruling after further briefing by the parties. (This order does not
22 constitute a substantive ruling on the petition for writ of habeas corpus.)
- 23 2. The court sets this matter for hearing on April 1, 2014, at 8:30 a.m. in Department 2
24 of this court.
- 25 3. At the hearing, the Public Defender shall appear and report to the court if it has a
26 conflict in this matter.
- 27 4. The court is mindful that the pending petition for writ of habeas corpus could
28 potentially divest this court of jurisdiction. (*In re Petition of Shaw*, 84 Cal.App. 24,

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24 (1927); *People v. Getty*, 50 Cal.App.3d 101, 109 (1975). This court will proceed with reconsideration unless and until the Court of Appeal stays this action or otherwise indicates this court has no jurisdiction.

DATED:

3/26/14



Hon. Brian Hill
Judge of the Superior Court

PROOF OF SERVICE

1013A(1)(3), 1013(c) CCP

STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA:

I am a citizen of the United States of America and a resident of the county aforesaid. I am employed by the County of Santa Barbara, State of California. I am over the age of 18 and not a party to the within action. My business address is 118 E Figueroa Street, Santa Barbara, California

On March 27, 2014 I served a copy of the attached **ORDER ON MOTION TO RECONSIDER ORDER DENYING PETITION FOR WRIT OF HABEAS CORPUS** addressed as follows:

James Sean Hall (H-53969)
5QSP/5N74V
San Quentin State Prison
San Quentin, CA 94964

Raimundo Montes De Oca
Santa Barbara Public Defender
1100 Anacapa Street
Santa Barbara, CA 93101

Kamala D. Harris
Attorney General of California
300 South Spring Street, Suite 1702
Los Angeles, CA 90013

Court of Appeal (via email)

XXX MAIL

By placing true copies thereof enclosed in a sealed envelope with postage fully prepaid, in the United States Postal Service mail box in the City of Santa Barbara, County of Santa Barbara, addressed as above.

 PERSONAL SERVICE

By leaving a true copy thereof at their office with their clerk therein or the person having charge thereof.

XXX WILL CALL BOX

By leaving a true copy thereof at their "will call" box, located in the Superior Court Clerk's Office, 118 E Figueroa Street, Santa Barbara California

 Inter-Office Mail

By depositing such envelope at the Administrative Offices of the Figueroa Division, Santa Barbara Superior Court 118 East Figueroa Street, for delivery via the County's inter-office mail service.

I certify under penalty of perjury that the foregoing is true and correct. Executed this 27th day of March 2014, at Santa Barbara, California.



S. Villalta, DEPUTY CLERK

PROOF OF SERVICE

1013A(1)(3), 1013(c) CCP

STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA:

I am a citizen of the United States of America and a resident of the county aforesaid. I am employed by the County of Santa Barbara, State of California. I am over the age of 18 and not a party to the within action. My business address is 118 E Figueroa Street, Santa Barbara, California

On July 10, 2013 I served a copy of the attached **ORDER TO SHOW CAUSE RE: PETITION FOR WRIT OF HABEAS CORPUS** addressed as follows:

James Sean Hall (H-53964)
5QSP/5N74V
San Quentin State Prison
San Quentin, CA 94964

Board of Parole Hearings
P.O. Box 4036
Sacramento, Ca 95812-4036

Raimundo Montes de Oca
1100 Anacapa Street
Santa Barbara, CA 93101

*** Inter office Mail***

Joyce Dudley
Santa Barbara District Attorney
1112 Santa Barbara Street
Santa Barbara, CA 93101

*** Inter office Mail***

XXX MAIL

By placing true copies thereof enclosed in a sealed envelope with postage fully prepaid, in the United States Postal Service mail box in the City of Santa Barbara, County of Santa Barbara, addressed as above.

 PERSONAL SERVICE

By leaving a true copy thereof at their office with their clerk therein or the person having charge thereof.

 WILL CALL BOX

By leaving a true copy thereof at their "will call" box, located in the Superior Court Clerk's Office, 118 E Figueroa Street, Santa Barbara California

XXX Inter-Office Mail

By depositing such envelope at the Administrative Offices of the Figueroa Division, Santa Barbara Superior Court 118 East Figueroa Street, for delivery via the County's inter-office mail service.

I certify under penalty of perjury that the foregoing is true and correct. Executed this 10th day of July 2013, at Santa Barbara, California.



E. Enriquez, DEPUTY CLERK

EXHIBIT C

But of course it is not culture, and those of my colleagues who, hating the teashop, make culture, on its account, a dirty word, are mistaken. If the people in the teashop go on insisting that culture is their trivial differences of behaviour, their trivial variations of speech habit, we cannot stop them, but we can ignore them. They are not that important, to take culture from where it belongs.

Yet, probably also disliking the teashop, there were writers I read then, who went into the same category in my mind. When I now read a book such as Clive Bell's *Civilisation*, I experience not so much disagreement as stupor. What kind of life can it be, I wonder, to produce this extraordinary fussiness, this extraordinary decision to call certain things culture and then separate them, as with a park wall, from ordinary people and ordinary work? At home we met and made music, listened to it, recited and listened to poems, valued fine language. I have heard better music and better poems since; there is the world to draw on. But I know, from the most ordinary experience, that the interest is there, the capacity is there. Of course, farther along that bus journey, the old social organization in which these things had their place has been broken. People have been driven and concentrated into new kinds of work, new kinds of relationship; work, by the way, which built the park walls, and the houses inside them, and which is now at last bringing, to the unanimous disgust of the teashop, clean and decent and furnished living to the people themselves. Culture is ordinary: through every change let us hold fast to that.

The other sense, or colour, that I refuse to learn, is very different. Only two English words rhyme with culture, and these, as it happens, are sepulture and vulture. We don't yet call museums or galleries or even universities culture-sepultures, but I hear a lot, lately, about culture-vultures (man must rhyme), and I hear also, in the same North Atlantic argot, of do-gooders and highbrows and superior prigs. Now I don't like the teashop, but I don't like this drinking-hole either. I know there are people who are humourless about the arts and learning, and I know there is a difference between goodness and sanctimony. But the growing implications of this spreading argot – the true cant of a new kind of rogue – I reject absolutely. For, honestly, how can anyone use a word like 'do-gooder' with this new, offbeat complacency? How can anyone wither himself to a state where he must use these new flip words for any attachment to learning or the arts? It is plain that what may have started as a feeling about hypocrisy, or about pretentiousness (in itself a two-edged word), is becoming a guilt-ridden tic at the mention of any serious standards whatever. And the word 'culture' has been heavily compromised by this conditioning: Goering reached for his gun; many reach for their chequebooks; a growing number, now, reach for the latest bit of argot.

'Good' has been drained of much of its meaning, in these circles, by the exclusion of its ethical content and emphasis on a purely technical standard; to do a good job is better than to be a do-gooder. But do we need reminding that any crook can, in his own terms, do a good job? The smooth reassurance of technical efficiency is no substitute for the whole positive human reference. Yet men who once made this reference; men who were or wanted to be writers or scholars, are now, with every appearance of satisfaction, advertising men, publicity boys, names in the strip newspapers. These men were given skills, given attachments, which are now in the service of the most brazen money-grabbing exploitation of the inexperience of ordinary people. And it is these men – this new, dangerous class – who have invented and

CRIMINAL DEFENSE ASSOCIATES (CDA)

125 EAST VICTORIA STREET, SUITE H

SANTA BARBARA, CALIFORNIA 93101

TELEPHONE (805) 962-2993

FACSIMILE (805) 966-0203

MICHAEL A. CARTY

JAMES L. CROWDER

WILLIAM L. DUVAL

DOUGLAS R. HAYES

April 14, 2014

Clerk, Court of Appeal
Second Appellate District, Division Six
200 East Santa Clara Street
Ventura, CA 93001

U.S. MAIL

Re: *In re James Sean Hall on Habeas Corpus*, Santa Barbara Superior Court No. 1429045; Court of Appeal, Second District, Division Six, number B255141.

Dear Mr. or Ms. Clerk:

By Order filed April 1, 2014, the Santa Barbara Superior Court, Honorable Brian E. Hill, appointed the undersigned in place and stead of the Public Defender to represent the petitioner in the referenced habeas proceeding.

As an initial observation, it appears to me that the Order filed in the trial court on March 26, 2014 granting petitioner's motion for reconsideration of the order of February 18, 2014 denying the habeas petition was improvidently issued. My understanding of the decision in *Jackson v. Superior Court* (2010) 189 Cal.App.4th 1051, 1064, footnote 5, is that Judge Hill lost jurisdiction of the matter on the day he denied the habeas petition, and that, therefore, the only viable application is the one filed in this Court on March 26, 2014, case number B255141.

I certainly appreciate Judge Hill's sense of justice, but I suspect that should he issue any later orders that are favorable to petitioner, the Attorney General's first contention on the appeal *she is authorized* to prosecute under Penal Code sections 1238, subdivision (a)(5), and 1506, will be that the Superior Court was without

authority to reconsider its order denying the petition. (See, Jackson, supra, at pp. 1063 – 1064.)

Clerk, Court of Appeal
April 14, 2014
Page 2


I have this date written to Mr. Hall to advise him of my appointment and to ask him to send me copies of the matter he has filed in your Court, including the letter that was filed on April 7, 2014.

However, Mr. Hall is both incarcerated and indigent, and I am informed that his resources are so limited that it would be more efficient to obtain a copy of the Court's file from the Court. I have scoured the Rules of Court, and am familiar with the process of obtaining copies of records that have been archived, but I have not had occasion to obtain a copy of an active case file from a reviewing court. Is the procedure the same as at the trial court---we visit your office, ask for a copy of the file and pay a fee?

Meantime, I request that the Court hold the petition in abeyance until I am able to advise the Court that supplemental pleading and/or exhibits need, or need not be filed.

I appreciate your courtesy and the Court's indulgence.

Respectfully submitted,



Douglas Russell Hayes
Attorney for Petitioner

cc:

Clerk of the Superior Court
County of Santa Barbara

1100 Anacapa Street
Santa Barbara, CA 93101
Telephone: (805) 882-4534

James Sean Hall – H53969

Nikhil Cooper, Esq.
Deputy Attorney General

300 South Spring St., Ste. 1702
Los Angeles, CA 90013
Telephone: (213) 897-0287

DOUGLAS RUSSELL HAYES

LAWYER

125 EAST VICTORIA, SUITE H

SANTA BARBARA, CALIFORNIA 93101-2018

TELEPHONE (805) 966-4171

FACSIMILE (805) 966-0203

April 18, 2014

James Sean Hall – H53969
5QSP/5N74V
San Quentin State Prison
San Quentin, CA 94964

Re: *In re James Sean Hall on Habeas Corpus, Court of Appeal, Second District, Division Six, number B255141.*

Dear Mr. Hall:

The Court of Appeal telephoned me today to advise that it had received my letter of April 14, and that it would forward to me an electronic copy of its file on your habeas petition. The Court also requested that you and I execute a "Substitution of Attorney" that memorializes the fact that I will henceforth be representing you in this matter in place and stead of you *in propria persona*. Therefore, I am enclosing a completed Substitution of Attorney form and I ask that you sign it in the two places indicated and return it to me in the enclosed envelope on which postage has been pre-paid. Once I receive it, I will sign it and forward it to the Court, after making copies for your file and mine.

It is my hope that the copy of your papers being forwarded by the Court of Appeal will include what Judge Hill said was missing from the "new material" you provided to him, namely: **page 6** of the 2012 Subsequent Risk Assessment of Richard Hayward, Ph.D., and **page 3** of the handwritten document entitled "Reasons I Committed my Crime."

If you did not provide those two pages in the papers you filed in the Court of Appeal, or any other material that was provided to Judge Hill, please forward it to me with the signed Substitution of Attorney. If you have any questions about what I am asking you to do, please call my office (collect) at 805.966.4171.

Very truly yours,


Douglas Russell Hayes

DRH/ea
Encl.

DOUGLAS RUSSELL HAYES
LAWYER
125 EAST VICTORIA, SUITE H
SANTA BARBARA, CALIFORNIA 93101-2018
TELEPHONE (805) 966-4171
FACSIMILE (805) 966-0203

May 2, 2014

James Sean Hall – H53969
5QSP/5N74V
San Quentin State Prison
San Quentin, CA 94964

Re: *In re James Sean Hall on Habeas Corpus, Court of Appeal, Second District, Division Six, number B255141.*

Dear Mr. Hall:

I have your letter of 4/26/14. Please do NOT withdraw your habeas petition pending at the Court of Appeal until you and I have talked. I am arranging a confidential telephone call with you which will hopefully take place the early or middle of next week.

Enclosed is the Return to the OSC on your petition in the Santa Barbara Superior Court, and the Order on Motion to Reconsider. You will note that in the Order, Judge Hill noted, at 2:12, “Two pages of these documents are still missing...” Those are the pages I asked you to provide, which we will need no matter which court is considering your petition (as you know, a copy of Judge Hill’s Order was transmitted to the Court of Appeal, so they are aware of the missing pages issue.)

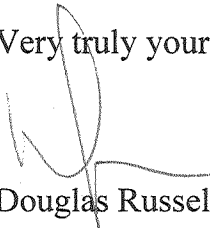
My role is to represent you to the best of my ability, not to argue with you about what the law is, or how it may apply to your case. I do note that it is not prudent to get bogged down on procedural questions, i.e., jurisdiction, rather than focusing on the substance of the petitioner’s claims. In other words, I don’t want to become embroiled in an argument with the Attorney General that the law says that Judge Hill was without jurisdiction to “reconsider” his order denying your habeas petition in the Superior Court. The better course, in my opinion, is to use the failings of the Public Defender, which Judge Hill notes in his Order, as the cause/reason in the Court of Appeal for not having first presented all the pages/exhibits in the Superior Court, or controverting the allegations in the Return. If I am correct, the Court of Appeal will either remand the matter to Judge Hill, thereby disposing of any jurisdictional issues, or, alternatively, will issue its own OSC. Either way, we will not be on a Fool’s Errand of arguing whether (a) the law bars reconsideration, and (b) the AG waived, or is estopped from raising, the jurisdictional bar.

As I said, please do NOT withdraw the Court of Appeal habeas petition until we have discussed the issues. I have contacted a colleague, now retired, who helped to write the rules pertaining to writs and appeals. I have explained the unusual procedural posture of your case and we have discussed various fundamental legal precepts, including the one that holds that jurisdictional issues may be raised at any time. "Standing goes to the existence of a cause of action (5 Witkin, Cal. Procedure (4th ed. 1997) Pleading, 862, p. 320), and the lack of standing may be raised *at any time* in the proceedings. (*Associated Builders Contractors, Inc. v. San Francisco Airports Com.* (1999) 21 Cal.4th 352, 361; *Common Cause v. Board of Supervisors* (1989) 49 Cal.3d 432, 438.)." (*Apartment Ass'n of Los Angeles County, Inc. v. City of Los Angeles* (2006) 136 Cal.App.4th 119, 128.) (Italics in original.)

Again, my job is to represent you, which means that the first thing I must do in this case is to make sure that any screw-ups do not prejudice you, and that you are not left with zero remedies because we were too precipitous in dismissing what may be the only viable petition we have.

I look forward to speaking with you next week.

Very truly yours,



Douglas Russell Hayes

DRH/ea

Encls.

DOUGLAS RUSSELL HAYES
LAWYER
125 EAST VICTORIA, SUITE H
SANTA BARBARA, CALIFORNIA 93101-2018
TELEPHONE (805) 966-4171
FACSIMILE (805) 966-0203

July 21, 2014

James Sean Hall – H53969
5QSP/5N74V
San Quentin State Prison
San Quentin, CA 94964

Re: *In re James Sean Hall on Habeas Corpus*, Court of Appeal, Second District, Division Six, number B255141; Santa Barbara Superior Court No. 1429045.

Dear Mr. Hall:

We received your substitution of attorney, signed 6/30/2014, on July 3, 2014. Unfortunately, when we checked the Court of Appeal docket on their website, we discovered that the Court had entered an Order on 6/30/2014 denying your petition for writ of habeas corpus. This presents a dilemma.

As you recall, you first filed a petition in Santa Barbara Superior Court, the Public Defender was appointed to represent you, the Attorney General filed a Return to the Petition, but the Public Defender failed to file a Traverse, and before you discovered that lapse, the court had denied your petition. You thereupon asked the Superior Court to reconsider its denial on the grounds that the Public Defender had screwed up and had a conflict. Contemporaneously with that motion for reconsideration, you filed a new habeas petition in the Court of Appeal.

While the Court of Appeal was considering your petition, the Superior Court granted your motion for reconsideration and appointed me to represent you because the Public Defender had a conflict. I attempted to withdraw your petition at the Court of Appeal, but the Court declined to act on my say-so until you had filed a substitution of attorney, that is, until you advised the Court that I represent you instead of you representing yourself. I sent you a form to substitute attorneys in the Court of Appeal case on April 18, 2014 and I requested that you sign and return it, but, as noted, you did not return it until after the Court of Appeal had denied your petition.

Now that I have the substitution, I may be able to get that Court to reconsider its denial and instead act in accordance with your letter request of 6/23/2014 seeking to withdraw the habeas petition. Until that issue is resolved, there are jurisdictional problems with

trying to get the Superior Court to do anything because a court of greater jurisdiction, i.e., the Court of Appeal, has DENIED the same petition.

I will try to sort all of this out, but meantime I need you to send me ASAP a copy of the Court of Appeal's 6/30/2014 Order Denying Petition for Writ of Habeas Corpus; I need to see exactly what the order says, e.g., did the Court consider the merits of your claims, or did it just say, "Petition for Writ of Habeas Corpus DENIED."

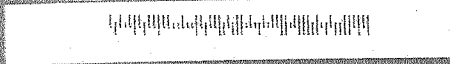
Please send a copy of that Order immediately. If you have any questions, please call my office (collect) at 805.966.4171.

Very truly yours,

A handwritten signature in black ink, appearing to read "Douglas Russell Hayes". The signature is stylized and somewhat cursive, with a large loop at the top and a long horizontal stroke extending to the right.

Douglas Russell Hayes

DRH/ea



JAMES D HALL - H53969
 50589 7/5 N 074U
 -505890 Surv. Court-Try CA
 149664

Non-Return

CV

U.S. MAIL
 U.S. POSTAL SERVICE
 SEP 24 2014
 U.S. MAIL FIRST CLASS PERMIT NO. 4120

UNITED STATES POSTAGE
 EAGLE
 02 1P
 0006560383 \$ 02.24⁰
 SEP 22 2014
 MAILED FROM ZIP CODE 94954

Supreme Court of California
 312 North Harbor Street
 Los Angeles, CA 90012

Legal Mail