

PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY

Name: Sharp Calvin L  
LAST FIRST MIDDLE INITIAL

Prisoner Number: AN0369;

Institutional Address: CALIFORNIA STATE PRISON - CORCORAN, P.O. Box #346, CORCORAN, CALIFORNIA, 93212;

FILED

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JAN 12 2018

SUSAN Y SOONG  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND

CV 17 7037

Calvin Leonard Sharp, Jr.,

Case Number: \_\_\_\_\_  
(Provided by the clerk upon filing)

Petitioner,

vs.

PETITION FOR A WRIT  
OF HABEAS CORPUS

SCOTT KEERNAN,

Respondent(s).

JSC

(PR)

\* REQUEST EVIDENTIARY HEARING \*

I. INFORMATION ABOUT YOUR CONVICTION AND SENTENCE

A. What sentence are you challenging in this petition?

1. Name and location of court that imposed sentence (for example: Alameda County Superior Court, Oakland): Ventura County Superior Court, Ventura, Ca.

2. Court Ventura County Superior Court;

3. Location 800 S. Victoria Avenue, Ventura, Ca, 93009;

4. Case number, if known 2008014330;

5. Date and terms of sentence 12.5.2012, LWOP, 2.25 to life + 10 years;

6. Are you now in custody serving this term? ("In custody" means in jail, on parole or probation, etc.) ..... YES  NO

If yes, provide name and address of institution:

Corcoran State Prison, P.O. Box 3461,  
Corcoran, Ca. 93212;

B. For what crime were you given this sentence?

*Note: If your petition challenges a sentence for more than one crime, list each crime separately using California Penal Code numbers, if known. If you are challenging more than one sentence, you should file a different petition for each sentence.*

1 cnt. Premed murder, 2 cnts. Attempted Premed. Murder,  
1 cnt Cruelty to Animals, Great Bodily Injury, Mayhem,  
Use of a Deadly Weapon;

C. Did you have any of the following proceedings?

Arraignment: ..... YES  NO   
Preliminary Hearing: ..... YES  NO   
Motion to Suppress: ..... YES  NO

D. How did you plead? ..... Guilty  Not Guilty  Nolo Contendere

Any other plea (specify) Not Guilty by Reason of Insanity;

E. If you went to trial, what kind of trial did you have?

Jury  Judge alone  Judge alone on a transcript

*\* ONLY SANITY PHASE \**

F. Did you testify at your trial? ..... YES  NO

G. Did you have an attorney at the following proceedings:

1. Arraignment not held ..... YES  NO   
2. Preliminary hearing not held ..... YES  NO   
3. Time of plea ..... YES  NO   
4. Trial *\* SANITY ONLY \** ..... YES  NO   
5. Sentencing ..... YES  NO   
6. Appeal ..... YES  NO   
7. Other post-conviction proceeding ..... YES  NO

H. Did you appeal your conviction? ..... YES  NO

1. If you appealed, to what court(s) did you appeal?

CALIF COURT OF APPEAL, 2<sup>ND</sup> District / Division 7

1 Court of Appeal..... YES  Year: 2014 NO

2 Result: Denied;

3 Supreme Court of California..... YES  Year: ~~2014~~ NO

4 Result: ~~Denied~~ DO NOT SEEK PETITION FOR REVIEW;

5 Any other court..... YES  Year: ~~2014~~ NO

6 Result: ~~Denied~~

7 2. If you appealed, were the grounds the same as those that you are raising in this  
8 petition?..... YES  NO

9 3. Did the court issue an opinion? \*TIME BARRED\* YES  NO

10 4. Did you seek permission to file a late appeal under Rule 31(a)?..... YES  NO

11 If you did, give the name of the court and the result: ///

12 ///

13 I. Other than appeals, have you previously filed any petitions, applications or motions with  
14 respect to this conviction in any court, state or federal?..... YES  NO

15 *Note:* If you previously filed a petition for a writ of habeas corpus in federal court challenging the  
16 same conviction you are challenging now and if that petition was denied or dismissed with  
17 prejudice, you must first file a motion in the U. S. Court of Appeals for the Ninth Circuit  
18 for an order authorizing this court to consider this petition. You may not file a second or  
19 successive federal habeas petition without first obtaining such an order from the Ninth Circuit.  
20 28 U.S.C. § 2244(b).

19 If you sought relief in any proceeding other than an appeal, answer the following  
20 questions for each proceeding. Attach extra paper if you need more space.

21 1. Name of court: California Supreme Court;

22 Type of proceeding: Habeas Corpus Petition;

23 Grounds raised (be brief but specific):

24 a. Prejudicial error, Bias impartiality by trial Judge

25 b. in violation of Due Process;

26 c. ///

27 d. ///

28 Result: Denied; Date of result: 12.9.15;

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2. Name of court: U.S. District Court, Central District of Ca.

Type of proceeding: Motion for Stay and Abeyance;

Grounds raised (be brief but specific):

a. IAC of Trial Counsel, Violation of Fed. R. Crim. P 11(e);

b. Violation of Criminal law # 63;

c. Involuntary Guilty Plea;

d. IAC of Appellate Counsel;

Result: Motion granted; Date of result: 5.3.2016;

3. Name of court: California Supreme Court of Ventura

Type of proceeding: Habeas Corpus

Grounds raised (be brief but specific):

a. Prejudicial Error, Bias Impartial Judge, Due Process Violation

b. IAC of trial counsel

c. Involuntary Guilty Plea

d. IAC of Appellate Counsel

Result: Denied Date of result: 5.19.2016

4. Name of court: U.S. District Court, Central District of Ca.

Type of proceeding: Habeas Corpus

Grounds raised (be brief but specific):

a. All 4 previous grounds raised

b. \_\_\_\_\_

c. \_\_\_\_\_

d. \_\_\_\_\_

Result: \_\_\_\_\_ Date of result: \_\_\_\_\_

J. Is any petition, appeal or other post-conviction proceeding now pending in any court?  
..... YES  NO

Name and location of court: ///

1 II.   GROUNDS FOR RELIEF  

2 State briefly every reason why you believe you are being confined unlawfully. Give facts to  
3 support each claim. For example, what right or privilege were you denied? What happened?  
4 Who made the error? Avoid legal arguments with numerous case citations. Attach extra paper if  
5 you need more space. Answer the same questions for each claim.

6 *Note:* You must present ALL your claims in your first federal habeas petition. Subsequent petitions  
7 may be dismissed without review on the merits. 28 USC § 2244(b); *McCleskey v. Zant*, 499 U.S.  
8 467, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991).

8 Claim One:

9 PLEASE SEE ATTACHED;

10 Supporting facts: ///

14 Claim Two: ///

16 Supporting facts: ///

20 Claim Three: ///

22 Supporting facts: ///

23 ///

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25 ///

26 If any of these grounds was not previously presented to any other court, state briefly which  
27 grounds were not presented and why: NOT APPLICABLE;

28 ///

# Grounds For Review

THE UNITED STATES SUPREME COURT HELD IN HOLLAND VS. FLORIDA, 560 U.S. 650 (2010):

"THE ANTI-TERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996 STATUTE OF LIMITATION'S DEFENSE IS NOT JURISDICTIONAL. IT DOES NOT SET FORTH AN INFLEXIBLE RULE REQUIRING DISMISSAL WHENEVER ITS CLOCK HAS RUN. THE ENACTMENT OF TIME LIMITATION PERIODS SEEN AS THAT IN 28 U.S.C.S. 2244(D), WITHOUT FURTHER ELABORATION, PRODUCES DEFENSES THAT ARE NON-JURISDICTIONAL AND THUS SUBJECT TO WAIVER AND FOREFEITURE."

THIS PETITION ADDRESSES A SINGLE ISSUE; THE "TIME BAR" OF PETITIONER'S FEDERAL PETITION FOR WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY (28 U.S.C. 2254), THAT HAS BEEN DISMISSED BY THE DISTRICT COURT UNDER 28 U.S.C.S 2244(D).

## PROCEDURAL SUMMARY

ON 6 NOV 2009, PETITIONER PLEAD GUILTY IN CASE # 2008014330 (VENTURA COUNTY, CALIFORNIA) TO 1-COUNT OF 1<sup>ST</sup> DEGREE MURDER, 2-COUNT OF ATTEMPTED MURDER, 2-COUNTS OF AGGRAVATED MAYHEM, AND 1-COUNT OF CRUELTY TO AN ANIMAL. PETITIONER WAS SENTENCED TO

# HABEAS CORPUS:

LIFE WITHOUT THE POSSIBILITY OF PAROLE (HEREIN "LWOP")  
2 - CONSECUTIVE "LIFE" TERMS, AND AN ADDITIONAL 10-YEAR  
TERM. ON 14 MAY 2014, THE CALIFORNIA COURT OF APPEALS  
AFFIRMED PETITIONER'S JUDGMENT AND SENTENCE. PETITIONER  
DID NOT SEEK REVIEW IN THE CALIFORNIA SUPREME COURT,  
THEREFORE, PURSUANT TO 28 USC 2244(D)(1)(A), CONVICTION  
WAS FINAL ON 30 JUNE 2014.

ON 16 APRIL 2016, PETITIONER FILED THIS PETITION, CASE  
# CV-16-2504-(GW)(AJW). A "STAY AND ABSTAINANCE" WAS  
GRANTED UNTIL 3 JAN 2017, TO EXHAUST ADDITIONAL CLAIMS.  
ON 2 FEB 2017, RESPONDANT FILED A "MOTION TO DISMISS" DUE  
TO UNTIMELINESS. PETITIONER FILED AN "OPPOSITION TO  
RESPONDANT'S MOTION TO DISMISS," ON 23 FEB 2017. THE  
HONORABLE ANDREW J. WISTRICH, UNITED STATES MAGISTRATE  
JUDGE, FILED "REPORT AND RECOMMENDATION" TO PETITIONER'S  
PETITION ON 29 MARCH 2017. PETITIONER FILED AN "OBJECTION  
TO THE REPORT AND RECOMMENDATION," ON 15 MAY 2017, WITH  
THE RESPONDANT FILING A "REPLY TO OBJECTION," ON 20  
JUNE 2017. THEREAFTER, ON 13 JULY 2017, JUDGE WISTRICH  
FILED A "SUPPLEMENTAL TO REPORT AND RECOMMENDATION."

FINALLY, ON 15 NOV 2017, AN "ORDER ACCEPTING THE  
REPORT AND RECOMMENDATION OF MAGISTRATE JUDGE," WAS  
ISSUED BY THE HONORABLE UNITED STATES DISTRICT  
JUDGE, GEORGE WU, DISMISSING THE PETITION AS  
UNTIMELY. JUDGE WU ALSO DENIED A "CERTIFICATE OF

# HABEAS CORPUS:

APPEALABILITY," ALSO ON 15 NOV 2017. PETITIONER THEN APPLIED TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, WHICH WAS RESPONDED WITH THE ENCLOSED COVER LETTER, FILED 11 DEC 2017, DIRECTING PETITIONER TO FILE A "NEW" PETITION FOR WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY (28 USC 2254), NEW CASE # CV-17-7037-JSC (PR).

## I. ARGUMENT

FEDERAL AND STATE CONSTITUTIONS GOVERNING POSTCONVICTION HABEAS CORPUS RELIEF RECOGNIZE THE IMPORTANCE OF THE "GREAT WRIT;" AN IMPORTANCE REFLECTED IN ITS CONSTITUTIONAL STATUS. HOWEVER, REVIEWING COURTS MUST NOT AND SHOULD NOT BE BURDENED WITH FRIVOLOUS APPEALS OR HABEAS CORPUS PETITION. IN KEEPING WITH THAT DOCTRINE, CONGRESS ENACTED IN 1996, THE "ANTI-TERRORISM AND EFFECTIVE DEATH PENALTY ACT" ("AEDPA") TO PROTECT THE FEDERAL COURT SYSTEM FROM BEING FORCED TO HEAR REPETITIOUS OR "STALE" CLAIMS. (28 USC 2244; AND CAREY VS. SAFFOLD, 536 US 214 (2002))

BUT THIS DOCTRINE IS NOT LIMITLESS, NOR IS IT MEANT BE CONSIDERED AS RIGID OR INFLEXIBLE. INDEED, IF A CRIMINAL DEFENDANT HAS BEEN SUBJECTED TO A MISAPPRAISE OF JUSTICE, THIS A CLEAR VIOLATION OF CONSTITUTIONAL RIGHTS OR SAFEGUARDS, IT WILL NEVER "RIPEN" INTO A



# HABEAS CORPUS:

REALIZATION OF CONSTITUTIONALITY. IT IS ONLY LOGICAL THAT THE AEDPA WAS NOT INTENDED TO ABSOLVE ANY LEGITIMATE CLAIMS FOR FEDERAL REVIEW.

PETITIONER FINDS HIMSELF TIME BARRED IRRESPECTIVE OF NOT ENGAGING IN DILATORY TACTICS NOR BEING SUBJECTED TO LIMITATIONS OR IMPEDIMENTS THAT WERE NO FAULT OF HIS OWN:

1. PETITIONER DILIGENTLY PREPARED FOR TIMELY FILING OF HIS 28 USC 2254 PETITION.

PETITIONER CITES THE FOLLOWING "LAUNDRY LIST," TAKEN CUMULATIVELY, TO DEMONSTRATE DUE DILIGENCE IN HIS PREPARATION OF HIS FEDERAL HABEAS PETITION:

- A) ACCUMULATION OF HABEAS PETITION INFORMATION;
- B) ACCUMULATION OF RELEVANT U.S. SUPREME CASE LAW; (PLEASE SEE EXHIBITS "B-1")
- C) LAW LIBRARY VISITATION ONLY LIMITED BY PRISON SCHEDULING OR EXTRAORDINARY EVENTS;
- D) LEGAL ASSISTANCE BY OTHER INMATES;
- E) LETTER WRITING FOR LEGAL ASSISTANCE OR PRO-BONO APPOINTMENTS; (EXHIBITS "B-2")
- F) ACQUISITION OF LEGAL MANUAL FOR HABEAS CORPUS PETITIONS; (EXHIBITS "B-3")
- G) CONSTANT READING AND RE-READING OF LEGAL PROSE;
- H) WRITING AND REWRITING OF LEGAL PAPERS;

# HABEAS CORPUS:

i) REVISITATION OF THE ABOVE AD Nauseam;

PETITIONER IN REVIEWING THE HOLDINGS OF HOWARD VS. FLORIDA, 560 U.S. 650 (2010); CONTENDS THAT "EQUITABLE TOLLING" WOULD BE PROPER WITHIN THESE CIRCUMSTANCES. FURTHERMORE, GIVEN THE WORDING AND "SPIRIT" OF WHAT THE "HOLLAND" COURT QUALIFIED AS THE 1ST OF 2 ACCEPTABLE REASONS FOR EQUITABLE TOLLING ONCE THE STATUTE OF LIMITATIONS HAS RUN, A FOCUS ON THE POSITIVE SEEMS TO BE RELEVANT, OR INSTRUCTIVE.

THE "HOLLAND" COURT IN DETERMINING THE ROLE CONGRESS INTENDED IN CONVEYING THE PROVISIONS OF THE AEDPA, NOTED THAT CONGRESS DID SO WITHOUT LOSING SIGHT OF THE FACT THAT "... THE WRIT OF HABEAS CORPUS PLAYS A VITAL ROLE IN PROTECTING CONSTITUTIONAL RIGHTS." HOWEVER, IT DID NOT SEEK TO END EVERY POSSIBLE DELAY AT ALL COST:

" THE IMPORTANCE OF THE "GREAT WRIT," THE ONLY WRIT EXPLICITLY PROTECTED BY THE CONSTITUTION; ART 1, SECTION 9, CH 2; ALONG WITH CONGRESSIONAL EFFORTS TO HARMONIZE THE NEW STATUTE WITH PRIOR LAW, COUNSELS HESITANCY BEFORE INTERPRETING AEDPA'S STATUTORY SILENCE AS INDICATING A CONGRESSIONAL INTENT TO CLOSE COURTHOUSE DOORS

# HABEAS CORPUS:

THAT A STRONG EQUITABLE CLAIM WOULD  
ORDINARILY KEEP OPEN." (560 U.S. 645)

INDEED, PETITIONER IS MINDFUL THAT THE STATE HAS  
AN INTEREST IN THE FINALITY OF CRIMINAL JUDGMENTS.  
ADDITIONALLY, ABUSE OF THE WRIT THROUGH DELAYED OR  
SUCCESSIVE PETITIONS THREATENS "FINALITY"; WITHOUT  
FINALITY, CRIMINAL LAW IS DEPRIVED OF MUCH OF ITS  
DETERRENT EFFECT. (MC CLESKEY VS. ZANT, 499 U.S. 467;  
KUHLMANN VS. WILSON, 477 U.S. 436 (1986)); WITH THAT  
SAID, THE "GREAT WRIT" REQUIRES TO OCCUPY A PLACE OF  
IMPORTANCE IN THE LAW. IT IS THE LAST SAFEGUARD  
OUR JUDICIAL SYSTEM PROVIDES FOR THOSE MEMBERS OF  
SOCIETY WHO HAVE BEEN CONVICTED OF A CRIME WITHOUT A  
FAIR TRIAL. WHEN MATTERS THAT DO NOT APPEAR IN THE  
TRIAL RECORD - SUCH AS TRIAL COUNSEL'S UNJUSTIFIED FAILURE  
TO PRESENT MATERIAL EVIDENCE OF INNOCENCE OR  
LESSER CULPABILITY (AS IN THIS CASE) - HAVE DRAMATICALLY  
AFFECTED THE OUTCOME OF THE TRIAL OR PROCEEDINGS,  
HABEAS OFFERS THE ONLY "VEHICLE" BY WHICH AN UNJUSTLY  
IMPRISONED PERSON MAY OBTAIN RELIEF.

IN THE 2<sup>ND</sup> OF 2 - ACCEPTABLE REASONS FOR EQUITABLE  
TELLING, PETITIONER SUBMITS THE FOLLOWING, AS AFFORDED  
IN THE "HOLLAND" RULING:

2. PETITIONER WAS SUBJECTED TO LIMITATIONS AND  
IMPEDIMENTS THAT WERE NOT FAULTS OF PETITIONER'S.

# HAIBEAS CORPUS:

PETITIONER CITES THE FOLLOWING LIMITATIONS:

1. LAW LIBRARY ACCESS;
2. EXTRAORDINARY EVENTS AT THE PRISON WHICH SEVERELY RESTRICT ~~TIME~~ MOVEMENT;
3. TIME IT TAKES "REGULAR" MAIL FOR LEGAL MATERIALS, MANUALS, LETTER RESPONSES, ATTORNEY CORRESPONDANCES; (EXHIBITS "B-2", "B-3," AND "B-4")
4. THE READING AND REREADING OF LEGAL DOCUMENTS, INCLUDING BUT NOT LIMITED TO PLEADINGS, REPORTS, "MOVING PAPERS, OPINIONS, DECISIONS, AND MOST IMPORTANTLY, THE ACADEMIC ASSIMILATION OF THE SAME; (EXH'S "B3"/"B4.")
5. THE WRITING, CORRECTING, EDITING AND REWRITING OF THE PETITIONS FILED;

PETITIONER IS LAW AT LAW AND REQUESTS THE 'STANDARD' AFFORDED IN SANDERS VS. RYDER, 342 F.3D 991 (9TH CIR, 2003)

## II.

PETITIONER HAS ESTABLISHED DUE DILIGENCE UNDER THE "HOLLAND" DECISION AND SUBMITS THAT THE AMOUNT OF TIME LAPSE IS ACTUALLY UNTIL THE CALIFORNIA SUPREME COURT FILING (CASE # S229104), DATED 8 SEPT 2015.

RESPONDANT USES THE 16 APRIL 2016, FILING DATE TO DEMONSTRATE THE TIME LAPSE PETITIONER VIOLATED, WHEN

# HABEAS CORPUS:

IN FACT THE LAPSE EXCEEDING THE 2244(D) TIME LIMIT IS REALLY UNTIL 8 SEPT 2015; 70-DAYS HENCE. THEREFORE, APPLYING THE SUPREME COURT HOLDINGS IN "HOLLAND" OF "DUE DILIGENCE" DEMONSTRATED BY PETITIONER; WITH THE DOCTRINE OF LENIENCY FOR PRO-SE PETITIONS, IN SANDERS V. RYDER, 342 F.3D 991 (9TH CIR, 2003); AND, IN A 9TH CIRCUIT CASE SUBSEQUENT TO "HOLLAND," ADAPTING A LITERAL INTERPRETATION OF THE "IMPOSSIBILITY" STANDARD RESTRICTION, THIS COURT SHOULD ALLOW EQUITABLE TOLLING IN THIS CASE. (SEE FUE V. BITEK, 842 F.3D 650 (9TH CIR 2016))

WITHOUT THE ERRONEOUS CONTENTION BY RESPONDENT OF THE 2244(D) TIME LIMIT VIOLATION BEING "NEARLY 10 MONTHS LATE," AND GIVEN "HOLLAND'S" DUE DILIGENCE WITH "SANDER'S" AND "FUE'S" DOCTRINES OF LENIENCY AND "NON-IMPOSSIBILITY," PETITIONER SHOULD BE AFFORDED EQUITABLE TOLLING FOR THAT LAPSE 70-DAYS AFTER 30 JUNE 2016. TO DO OTHERWISE, NOT ONLY VIOLATES THE ABOVE-MENTIONED PROVISIONS, BUT DEFEATS THE TRUE PURPOSE AND INTENT OF THE "GREAT WRIT;" TO AFFORD AN AVENUE OF REVIEW, IN SOME CASES ONLY AVENUE, TO THE WRONGFULLY CONVICTED OR THOSE OF LESSER CULPABILITY. (PLEASE SEE EXHIBIT "C")

## III

PETITIONER RESPECTFULLY DIRECTS THIS HONORABLE COURT TO THE "QUINTESSENCE" OF THE "HOLLAND" RULING

# HABEAS CORPUS:

## VERSUS CONGRESSIONAL ECONOMIC JUDICIAL GUIDELINES.

AS STATED IN PART I, THE "HOLLAND" COURT STRESSED THE FOCUS WAS "FLEXIBILITY" AND A DISDAIN FOR "MECHANICAL RULES" REGARDING THE AEDPA (560 U.S. 650) PARTICULARLY IF POTENTIALLY MERITORIOUS CLAIMS HANG IN THE BALANCE.

PETITIONER'S 6<sup>TH</sup> AND 14<sup>TH</sup> AMENDMENT RIGHTS WERE GROSSLY VIOLATED; INDEED, WHAT TRIAL COUNSEL, EVEN MARGINIALLY COMPETENT, WOULD ALLOW ANY DEFENDANT TO PLEAD "OPEN-ENDED" TO A NON-DEATH-PENALTY CASE?? IN ADDITION, A REASONABLE DEFENSE PLATFORM FOR INSANITY, REplete WITH FAMILY HISTORY, WAS NOT UTILIZED BEFORE A JURY. WHILE THESE CHARGES WERE TRAGIC, THE PETITIONER IS AN A-TYPICAL DEFENDANT. THE CASE WORTHY OF MITIGATION!

THE DEFENSE WAS ALLOWED TO CONSTRUCT, WHAT APPEARS TO BE A VIABLE INSANITY OR "P.C. 26" DEFENSE, AT COUNTY EXPENSE, THAT THE DPD ABANDONED IN FAVOR OF ADVISING FOR AN OPEN-ENDED PLEA:

"... ALTHOUGH COURTS ORDINARILY PRESUME THAT THE LAWYER IS COMPETENT TO PROVIDE THE "GUIDING HAND" THAT THE DEFENDANT NEEDS... THERE ARE CIRCUMSTANCES THAT ARE SO LIKELY TO PREJUDICE THE ACCUSED THAT THE COST OF LITIGATING THEIR EFFECTS IN A PARTICULAR CASE

1 HABEAS CORPUS:

2 is "UNJUSTIFIED" (U.S. Vs. CHRONIC,  
3 466 U.S. 648 (1984))

4  
5 THE U.S. SUPREME COURT, ALSO IN 1984, OBSERVED THAT  
6 WHEN TRIAL COUNSEL'S REPRESENTATION FALLS BELOW AN  
7 OBJECTIVE STANDARD OF PROFESSIONAL "REASONABLENESS,"  
8 OR COUNSEL'S DEFICIENT PERFORMANCE, UNDER A TEST OF  
9 REASONABLE PROBABILITY OF A MORE FAVORABLE OUTCOME,  
10 THEN THE ACCUSED HAS BEEN DENIED HIS 6TH AMENDMENT  
11 RIGHT TO ASSISTANCE OF COUNSEL, AND DUE PROCESS /  
12 EQUAL PROTECTION UNDER THE 14TH AMENDMENT. (SEE  
13 STRICKLAND VS. WASHINGTON, 466 U.S. 668)

14  
15 THERE CAN BE NO REASONABLE, RATIONAL, NOR ACCEPTABLE  
16 REASON TO ADVISE OPEN-ENDED PLEADING FOR AN EXCEPTION  
17 OF "LIFE WITHOUT PAROLE." ADDING TO PETITIONER'S 6TH  
18 AMENDMENT VIOLATIONS IS THE DEFICIENT APPELLATE REVIEW.  
19 AGAIN, HOW COULD ANY REASONABLE APPELLATE REVIEW  
20 OVERLOOK TRIAL COUNSEL'S DISMAL PERFORMANCE, AS IN  
21 THESE CIRCUMSTANCES? (SMITH VS. ROBBINS, 528 U.S. 259 (2000))

22  
23 FEDERAL REVIEW PERHAPS IS ONLY WHAT STANDS BETWEEN  
24 PETITIONER AND A MISCARriage OF JUSTICE. HOWEVER, THE  
25 MERITS WILL REMAIN UNHEARD WITHOUT A FAVORABLE  
26 RULING REGARDING PETITIONER'S TIME-BAR PURSUANT TO  
27 "HOLLAND VS FLORIDA" (ALSO PANETTI VS. QUARTERMAN,  
28 127 S. CT. 2842 (2007))

1 HABEAS CORPUS:

2 CONCLUSION

3 FOR ALL THE REASONS STATED ABOVE, PETITIONER  
4 CALVIN SHARP, RESPECTFULLY REQUEST THIS HONORABLE  
5 COURT GRANT THE INSTANT PETITION AND ALLOW THE  
6 FILING OF AN AMENDED PETITION FOR WRIT OF HABEAS  
7 CORPUS BY A PERSON IN STATE CUSTODY (28 USC 2254)  
8 TO ADDRESS THE MERITS.

9  
10 By:

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12 151 Calvin Sharp R  
13 PETITIONER CALVIN SHARP

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16 VERIFICATION

17 UNDER PENALTY OF PERJURY, I CALVIN SHARP DECLARE THE  
18 FOREGOING TRUE AND CORRECT TO THE BEST OF MY BELIEF  
19 AND KNOWLEDGE. EXECUTED THIS 6TH DAY OF JANUARY,  
20 2018, AT CORCORAN, CALIFORNIA.

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23 151 Calvin Sharp R  
24 DECLARANT CALVIN SHARP

25 ///

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3 List, by name and citation only, any cases that you think are close factually to yours so that they  
4 are an example of the error you believe occurred in your case. Do not discuss the holding or  
5 reasoning of these cases: Nnebe v. U.S (2007); Socha v. Bouquston (2014)  
6 Rudin v. Myles (2015); Nara v. Frank (2001); Holland v. Florida  
7 (2010); Maples v. Thomas (2012); Strickland v. Washington;  
8 Jackson v. Kelly (2011); Mania v. Valenzuela (2014); Lutz v. Palmer (2012)

9 Do you have an attorney for this petition?..... YES  NO

10 If you do, give the name and address of your attorney: ///  
11 ///

13 WHEREFORE, petitioner prays that the court grant him/her the relief to which he/she may be  
14 entitled in this action. I verify under penalty of perjury that the foregoing is true and correct.

15 Executed on:

16 6 JAN 2018      Calvin L. Spaul  
17                      Date                      Signature of Petitioner

18  
19  
20 \* PETITIONER RESPECTFULLY  
21  
22                      REQUESTS EVIDENTIARY  
23  
24                      HEARING \*  
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# EXHIBIT A

ORIGINAL  
FILED

DEC -11 2017

SUSAN Y. SOONG  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

Dear Mr. Sharp:

CV 17 7037

Your action has been filed as civil case number \_\_\_\_\_

It appears that you have not attached a complaint or petition to your other pleadings.

JSC

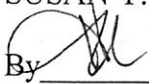
- If you do not submit a completed complaint or petition on the proper form— noting the above-referenced case number—within 28 DAYS from the filing date stamped above, your action will be DISMISSED and the file closed.
- If you did not intend to file a new civil action, please notify the court within 28 DAYS from the filing date stamped above.

(PR)

A blank copy of our **Complaint by a Prisoner form** is enclosed for your use.

A blank copy of our **Petition for a Writ of Habeas Corpus form** is enclosed for your use.

Sincerely,  
SUSAN Y. SOONG, Clerk,

By   
Deputy Clerk

# EXHIBIT B