

New Judge  
HWA  
530

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

Name Bayramoglu Fikri F.B  
(Last) (First) (Initial)

Prisoner Number C-54604

Institutional Address Chudownella Valley State Prison  
P.O. Box 2349 - Blythe, CA 92226

**FILED**  
MAR 23 2011  
RICHARD W. WIERING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

Fikri Bayramoglu,  
(Enter the full name of plaintiff in this action.)

vs.

J. Tim Ochoa, Warden,  
Chudownella Valley State Prison

(Enter the full name of respondent(s) or jailor in this action)

**CV**

**11**

**1388**

Case No. \_\_\_\_\_  
(To be provided by the clerk of court)

**PETITION FOR A WRIT  
OF HABEAS CORPUS**

**WHA**

**E-filing**

**(PR)**

Read Comments Carefully Before Filling In

When and Where to File

You should file in the Northern District if you were convicted and sentenced in one of these counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma. You should also file in this district if you are challenging the manner in which your sentence is being executed, such as loss of good time credits, and you are confined in one of these counties. Habeas L.R. 2254-3(a).

If you are challenging your conviction or sentence and you were not convicted and sentenced in one of the above-named fifteen counties, your petition will likely be transferred to the United States District Court for the district in which the state court that convicted and sentenced you is located. If you are challenging the execution of your sentence and you are not in prison in one of these counties, your petition will likely be transferred to the district court for the district that includes the institution where you are confined. Habeas L.R. 2254-3(b).

CV-1388 WHA

1 Who to Name as Respondent

2 You must name the person in whose actual custody you are. This usually means the Warden or  
3 jailor. Do not name the State of California, a city, a county or the superior court of the county in which  
4 you are imprisoned or by whom you were convicted and sentenced. These are not proper  
5 respondents.

6 If you are not presently in custody pursuant to the state judgment against which you seek relief  
7 but may be subject to such custody in the future (e.g., detainees), you must name the person in whose  
8 custody you are now and the Attorney General of the state in which the judgment you seek to attack  
9 was entered.

10 A. INFORMATION ABOUT YOUR CONVICTION AND SENTENCE

11 1. What sentence are you challenging in this petition?

12 (a) Name and location of court that imposed sentence (for example; Alameda  
13 County Superior Court, Oakland):

14 Superior Court County of Marin  
15 Court Location

16 (b) Case number, if known 8215

17 (c) Date and terms of sentence Oct. 5, 1982 - 15 yrs - to life.

18 (d) Are you now in custody serving this term? (Custody means being in jail, on  
19 parole or probation, etc.) Yes  No

20 Where?

21 Name of Institution: Chukawalla Valley State Prison

22 Address: P.O. Box 2289, Blythe, CA 92226

23 2. For what crime were you given this sentence? (If your petition challenges a sentence for  
24 more than one crime, list each crime separately using Penal Code numbers if known. If you are  
25 challenging more than one sentence, you should file a different petition for each sentence.)

26 Second Degree Homicide, 187, without a weapon enhance-  
27 ment, and without any prior criminal history, and near  
28 model inmate record prior to - 3 - Serious - Staff - Misconduct.

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3. Did you have any of the following?

Arraignment: Yes  No   
Preliminary Hearing: Yes  No   
Motion to Suppress: Yes  No

4. How did you plead?

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

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

Jury  Judge alone  Judge alone on a transcript

6. Did you testify at your trial?

Yes  No

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

(a) Arraignment Yes  No   
(b) Preliminary hearing Yes  No   
(c) Time of plea Yes  No   
(d) Trial Yes  No   
(e) Sentencing Yes  No   
(f) Appeal Yes  No   
(g) Other post-conviction proceeding Yes  No

8. Did you appeal your conviction?

Yes  No

(a) If you did, to what court(s) did you appeal?

Court of Appeal Yes  No

Year: 1983, 84 Result: Denied

Supreme Court of California Yes  No

Year: 1984, 85 Result: Denied

Any other court Yes  No

Year: 1986 Result: Denied. See *Payramogly v. Estelle*,  
806 F.2d 880 (9th Cir. 1986). This Court Case  
NO: CV-84-6433-MHP.

(b) If you appealed, were the grounds the same as those that you are raising in this

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petition? Yes \_\_\_\_\_ No   
(c) Was there an opinion? Yes  No \_\_\_\_\_  
(d) Did you seek permission to file a late appeal under Rule 31(a)?  
Yes \_\_\_\_\_ No

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

\_\_\_\_\_

9. Other than appeals, have you previously filed any petitions, applications or motions with respect to this conviction in any court, state or federal? Yes  No \_\_\_\_\_

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

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

I. Name of Court: Supreme Court of California

Type of Proceeding: Petition for Writ of Habeas Corpus

Grounds raised (Be brief but specific):

a. Petitioner's Central file is Grossly Contaminated,

b. and Must be Decontaminated Prior to Oct. 12, 2010

c. BPt. And - 3 "illegal Still Terms", fabricated change of identity

d. Prejudice BPt against the Petitioner

Result: Denied Date of Result: Feb. 16, 2011.

II. Name of Court: \_\_\_\_\_

Type of Proceeding: \_\_\_\_\_

Grounds raised (Be brief but specific):

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- a. \_\_\_\_\_
- b. \_\_\_\_\_
- c. \_\_\_\_\_
- d. \_\_\_\_\_

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

III. Name of Court: \_\_\_\_\_

Type of Proceeding: \_\_\_\_\_

Grounds raised (Be brief but specific):

- a. \_\_\_\_\_
- b. \_\_\_\_\_
- c. \_\_\_\_\_
- d. \_\_\_\_\_

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

IV. Name of Court: \_\_\_\_\_

Type of Proceeding: \_\_\_\_\_

Grounds raised (Be brief but specific):

- a. \_\_\_\_\_
- b. \_\_\_\_\_
- c. \_\_\_\_\_
- d. \_\_\_\_\_

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

(b) Is any petition, appeal or other post-conviction proceeding now pending in any court?

Yes  No

Name and location of court: U.S. Dist. Ct. ED/CA

B. GROUNDS FOR RELIEF

State briefly every reason that you believe you are being confined unlawfully. Give facts to support each claim. For example, what legal right or privilege were you denied? What happened? Who made the error? Avoid legal arguments with numerous case citations. Attach extra paper if you

1 need more space. Answer the same questions for each claim.

2 [Note: You must present ALL your claims in your first federal habeas petition. Subsequent  
3 petitions may be dismissed without review on the merits. 28 U.S.C. §§ 2244(b); McCleskey v. Zant,  
4 499 U.S. 467, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991).]

5 Claim One: BPH violated Petitioner's Right to a fair hearing  
6 U.S. Constitution 8th and 14th Amendments, violated.

7 Supporting Facts: No. see atch. "declarations" of Petitioner before the Chief  
8 person, BPH and Governor, both Dated: May 11, 2010, without noted  
9 listed Exhibits. Also atch. copy of "Motion For Reconsideration" Stamp  
10 ed "Received" by the Supreme Ct. of CA. March 4, 2011, with its attachments.

11 Claim Two: BPH violated Petitioner's Rights under 15CCR2253(b)  
12 Waiver, requires 45 day limit. 2263(d), does not require 45 day limit.

13 Supporting Facts: No. see atch. "declaration" of Petitioner before the Supreme  
14 Ct. of CA. "Received" Feb. 16, 2011. BPH 1001(a) Dated: 7-27-10, Decision by  
15 BPH dated 8-3-10. Received by Petitioner Sept 8, 10. Pet. immediately filed  
16 via 2nd Request for Reformation. No BPH letter of Oct. 13/10, 5 legal Mail Recd.

17 Claim Three: Mr. D. Benitez, CCI deliberately, intentionally entered or  
18 introduced false, incomplete Report to the BPH for Pet. BPH of Oct. 12, 10.

19 Supporting Facts: No. see above noted "Declaration" of Petitioner "Received"  
20 Feb. 16, 11, by the Supreme Ct. of CA. No. see atch. I/M Request  
21 For interview CDCR 22, Dated: 2-22-11. Section "C" Sen. D. J. Okamoto  
22 response, litigation Cor. did not denied Mr. D. Benitez, CCI, "Sabotage"  
23 Petitioners Oct. 12, 2011. BPH.

24 If any of these grounds was not previously presented to any other court, state briefly which  
25 grounds were not presented and why:

26 \_\_\_\_\_  
27 \_\_\_\_\_  
28 \_\_\_\_\_

1 List, by name and citation only, any cases that you think are close factually to yours so that they  
2 are an example of the error you believe occurred in your case. Do not discuss the holding or reasoning  
3 of these cases:


4 Greenholtz v. Inmates of Nebraska, CA Penal Code 30/11.5 Title 15 CCR  
5 2253(b)(d) in re Lawrence (Cal. 2008), in re Rozenswartz, (Cal. 2002) and  
6 Petitioner is entitled to response to his allegations in his "declarations."

7 Do you have an attorney for this petition? Yes \_\_\_ No ✓

8 If you do, give the name and address of your attorney On Oct. 12, 2011, BPH sentenced Pet to life  
9 without the possibility of parole, without any legal reasons. Pet desperately needs  
10 the assistance of an attorney.

11 WHEREFORE, petitioner prays that the Court grant petitioner relief to which s/he may be entitled in  
12 this proceeding. I verify under penalty of perjury that the foregoing is true and correct.

13 Executed on 3-17-2011  
14 Date

  
15 Signature of Petitioner

16 Relief Requested:

17 Petitioner reserves his right to file a separate petition for  
18 the BPH decision to deny his parole for -15- years after  
19 serving more than -30- years for his -15- years-to-life sen-  
20 (Rev. 6/02) tence without any prior criminal history, and near  
21 model inmate record prior to -3- "illegal SHU Term."

22 1- In this petition, petitioner appealing the CPCR/BPH  
23 refusal to decantaminate his grossly contaminated Central  
24 file prior to his scheduled BPH of Oct. 12, 2010, so that his  
25 right to a fair hearing would not be violated.

26 2- Petitioner appealing the BPH's refusal to grant his  
27 request for postponement, (claim-2-) because of petitioner-  
28 er's pending petition in the Supreme Cr. of CA. # 5184482,  
As. See Attached sheet(s).

## Relief Requested Continue

pending petition in the Superior Court of CA. County Marin, Case No: SC171671A, and petitioner's possible transfer to Turkey (See BPH 1001CA) dated: 7-27-2010, and BPH letter of June 5, 2009), and pending -2- civil lawsuits in the U.S. Dist. Ct. ED/CA. NO: CV-10-0328-EFB.

3- Petitioner appealing the deliberately, intentionally entered or introduced false, incomplete Report to BPH for petitioner's parole consideration hearing of Oct. 12, 2010, by Counselor D. Benitez. This report "sabotaged" petitioner's parole, and must be removed from petitioner's Central file. Note: The Litigation Coordinator Mr. Olernick, did not denied the fact that report failed, and failed miserably to Report petitioner's accomplishments, and life saving heroic acts.

Petitioner have exhausted all of his CDC/BPH remedies, and despite CDCR DL "Amended Decision" that the petitioner were supposed -15- more "illegal SHU Term", despite CDCR Memo of July 9, 2008, admitted that the "Staff did violate CDCR policy," Mr. Benitez, CCI and BPH repeatedly used/reviewed these trump up charges, in inflammatory, pre-judicial documents against the petitioner. Please see I/M Request for Interview, CDCR 22 Dated: 2-22-11. Also see Sections C and D Dated: 3-3, and 3-9-2011. Mr. Olernick, did not denied that Mr. Benitez's Report to BPH of Oct. 12, 2010, "sabotaged" petitioner's hearing. On March 10, 2011, petitioner filed a CDC602, requesting Mr. Benitez's Report must remove from petitioner's Central file. If the court required the Petition For Writ of Habeas Corpus, Page 7 of -1-

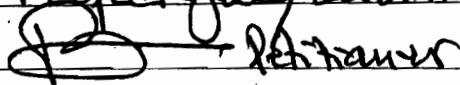


1 decision of the Warden, petitioner will make it available  
2 to the Court when he receives the decision.

3 4 - Petitioner is indigent, respectfully requests appointment  
4 of counsel, see McFarland v. Scott, 512 U.S. at 860 B  
5 Garceau v. Woodford, U.S. 123 S. Ct. 1398 (2003)

6 Specific facts demonstrating the real possibility of constitu-  
7 tional error. Blackledge v. Allison, S. Ct. 162 (30, 1997).  
8 Meritorious claim on the merits, life imprisonment, without  
9 the possibility of parole, without any legal or moral just-  
10 ification by the BPH on Oct. 12, 2010.

11 5 - Petitioner requests an evidentiary hearing, and  
12 any other relief the Honorable Court deems just.

13 Dated: 3-17-2011. Respectfully submitted,  
14  Petitioner

15 Your Honor: BPH 1001(a) Dated: July 27, 2010, was completed by Mr. D.  
16 Benitez, CCT. Mr. Shupe, CCT, agreed that Mr. Benitez, made  
17 that mistake, not me. BPH Decision Dated: 8-3-10, Denied Postponement,  
18 but I did not received the Decision until Sept. 8, 10, and I immedi-  
19 ately filed my 2nd Request for Postponement (I see att'd. legal  
20 Mail Receipts (5)). I also see att'd. BPH Letter of Oct. 13, a day af-  
21 ter my BPH of Oct. 12, 2010, telling me that the Board did not re-  
22 ceived my Request before my hearing was held. I do not believe this.  
23 But even so, they should be held responsible for the delay, not me.

24 In addition, 15CCR 2253(d) does not require 45 day limit, and  
25 there are many inmates in here with me, received Postponement/  
26 Waivers at their Board Hearings, without any prior written requ-  
27 ests for Postponement/Waiver, like petitioner.

28 Petition for Writ of Habeas Corpus, Page 7 of -2- of -2-