

Randy S. Kravis, Esq.  
State Bar #214100  
12930 Ventura Blvd., #903  
Studio City, CA 91604  
(310) 428-6191  
fax (818) 237-5432

Attorney For Petitioner  
CHRISTINE NEY

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

CHRISTINE SUZANNE NEY,

Petitioner,

vs.

DOYLE BLANEY, Probation Officer,

and

VERNE SPEIRS, Chief Probation  
Officer, Sacramento County Probation  
Department,

Respondents.

) No: \_\_\_\_\_

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) **PETITION FOR WRIT OF**  
) **HABEAS CORPUS BY A PERSON**  
) **IN STATE CUSTODY (28 U.S.C.**  
) **SECTION 2254)**

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1   **PETITION FOR WRIT OF HABEAS CORPUS**

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3           Petitioner, CHRISTINE NEY, by and through her attorney, Randy S. Kravis,

4 pursuant to 28 U.S.C. § 2254, petitions this Honorable Court to grant her a Writ of

5 Habeas Corpus and states:

6           1.      Petitioner is a citizen of the State of California, currently on probation

7 following her felony conviction in the Superior Court of Sacramento County, State

8 of California, case number 02F09957.

9           2.      On March 12, 2004, a jury found petitioner guilty of one felony count

10 of operating an endless chain scheme in violation of California Penal Code section

11 327.

12           3.      On August 26, 2004, the court ordered that imposition of judgment

13 and sentence be stayed and that petitioner be placed on five years formal probation.

14           4.      Petitioner appealed to the California Court of Appeal, Third Appellate

15 District, case number C048122. She raised the following four grounds:

16           a.      Her right to due process was violated because she was

17 convicted of operating an endless chain scheme without sufficient evidence

18 that Women Helping Women (WHW) was an endless chain scheme or that

19 petitioner was an “operator” within the meaning of Penal Code section 327;

20           b.      The trial court committed instructional error in violation of

21 petitioner’s Sixth Amendment right to a fair and impartial jury by refusing to

22 provide the jury with her proposed instruction that WHW should not be

23 considered an endless chain scheme if it was determined that the

24 organization did not require its members to recruit new ones;

          c.      If the Court of Appeal concluded that WHW was an endless

chain scheme within the meaning of Penal Code section 327, then that

statute was unconstitutionally vague, as interpreted;

1           d.     She was denied her Sixth Amendment right to the effective  
2 assistance of counsel when her defense attorney failed to call witnesses who  
3 would have testified that they received compensation from the organization  
4 without recruiting new members.

5           5.     On August 23, 2006, in an unpublished decision, the Court of Appeal  
6 rejected each of petitioner's claims and affirmed her conviction and sentence.

7           6.     Petitioner sought review of the Court of Appeal's decision in the  
8 California Supreme Court, raising the following two grounds:

9           a.     Her right to due process was violated because she was  
10 convicted of operating an endless chain scheme without sufficient evidence  
11 that WHW was an endless chain scheme or that petitioner was an "operator"  
12 within the meaning of Penal Code section 327;

13           b.     Under the Court of Appeal's interpretation of section 327, that  
14 section was unconstitutionally vague.

15           7.     The California Supreme Court – case number S146849 -- summarily  
16 denied review on November 1, 2006.

17           8.     Petitioner has not filed any habeas petitions in any state court with  
18 respect to this judgment of conviction.

19           9.     In this Petition, petitioner states the following two grounds on which  
20 she claims she is being held in violation of the United States Constitution:

21           a.     Her right to due process was violated because she was  
22 convicted of operating an endless chain scheme without sufficient evidence  
23 that WHW was an endless chain scheme or that petitioner was an "operator"  
24 within the meaning of Penal Code section 327. Specifically, WHW was not  
an endless chain scheme because an endless chain scheme, as defined by  
section 327, is one whereby "a participant" must recruit additional members  
in order to receive her payout and WHW did not place such a recruitment

1 requirement on its members. Also, petitioner was not an “operator” of the  
2 organization because she did not have any managerial authority within the  
3 organization. Since she was not an operator, the evidence was insufficient to  
4 sustain her conviction for operating an endless chain scheme.

5 b. Section 327, as interpreted by the Court of Appeal, was  
6 unconstitutionally vague in violation of petitioner’s right to due process.  
7 Section 327 defines an endless chain scheme as one in which each  
8 “participant” must recruit additional members in order to receive her payout.  
9 WHW had no such requirement. The Court of Appeal, however, interpreted  
10 the statute such that an endless chain scheme is one where the group as a  
11 whole must recruit new members in order to sustain itself. This was an  
12 unforeseeable expansion of the statutory definition of an endless chain  
13 scheme that denied petitioner adequate notice and fair warning of what was  
14 criminal in violation of her right to due process.

15 10. Petitioner has not previously filed any habeas corpus petitions in any  
16 federal court with respect to this judgment of conviction.

17 11. Petitioner does not have any petitions now pending in any state or  
18 federal court with respect to this judgment of conviction.

19 12. Petitioner is currently represented by attorney Randy S. Kravis. His  
20 address is 12930 Ventura Blvd., #903, Studio City, CA 91604. His business phone  
21 number is (310) 428-6191.

22 13. The conviction and sentence under which petitioner is on probation is  
23 unlawful, unconstitutional, and void because of the violation of petitioner’s  
24 Fourteenth Amendment right to due process.

14. This Court has jurisdiction under the Petition and the issues raised  
pursuant to 28 USC section 2254 because Petitioner is on probation in violation of  
the Constitution and laws of the United States.

1 15. Petitioner incorporates by reference the attached Memorandum of  
2 Points and Authorities in support of the Petition for Habeas Corpus and the  
3 attached Exhibits.

4 16. WHEREFORE, Petitioner CHRISTINE NEY moves this Honorable  
5 Court to grant the following relief:

- 6 a. Accept jurisdiction over this case;  
7 b. Require the respondent to answer the allegations in this Petition  
8 and Points and Authorities in Support;  
9 c. Order respondent to lodge the record on appeal with this Court;  
10 d. Issue a Writ of Habeas Corpus freeing petitioner from her  
unconstitutional custody.

11 Respectfully Submitted,

12 /s/ Randy S. Kravis

13 Randy Kravis, #214100  
14 Attorney for Petitioner

15 DATED: January 4, 2008  
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1 **VERIFICATION**

2 I am an attorney at law duly licensed to practice in all courts of the State of  
3 California, the United States District Court for the Eastern District of California,  
4 and the Ninth Circuit Court of Appeals. I am the attorney for petitioner,  
5 CHRISTINE NEY, in this action. All facts alleged in the above document not  
6 otherwise supported by citations to the record, exhibits or other documents are  
7 within my knowledge and for that reason I make this verification on petitioner’s  
8 behalf.

9 I have read the foregoing Petition and declare under penalty of perjury that  
10 the foregoing is true and correct, except as to matters stated on information and  
11 belief, and as to those matters, I believe them to be true.

12 This verification was executed on January 4, 2008, Studio City, CA.

13 /s/ Randy S. Kravis  
14 Randy S. Kravis  
15 Attorney for Petitioner  
16 CHRISTINE NEY

17 I am the petitioner in this action. All facts alleged in the above document not  
18 otherwise supported by citations to the record, exhibits or other documents are  
19 within my knowledge. I have read the foregoing Petition and declare under penalty  
20 of perjury that the foregoing is true and correct, except as to matters stated on  
21 information and belief, and as to those matters, I believe them to be true.

22 This verification was executed on January 4, 2008, Sacramento, CA.

23 /s/ Christine Ney  
24 Christine Ney, Petitioner  
(original signature retained  
by attorney Randy Kravis)