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10
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12
13 IN AND FOR THE COUNTY OF LOS ANGELES
14

15 In re

16
17 RENE ENRIQUEZ,
18 CDCR #H69471
19

20 On Habeas Corpus

21 Case No.:
22 PETITION FOR WRIT OF HABEAS
23 CORPUS AND MEMORANDUM OF
24 POINTS AND AUTHORITIES IN SUPPORT
25 THEREOF

Clara Foltz Criminal Justice Center
Attn: Department 100, 13th Floor

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I.

INTRODUCTION

1. Petitioner Rene Enriquez seeks habeas corpus relief from a decision by Governor Newsom on September 18, 2020, reversing a grant of parole by the Board of Parole Hearings on May 6, 2020.

2. Petitioner was sentenced to two concurrent terms of 15 years to life with the possibility of parole for each of two counts of second degree murder, plus a concurrent term of 20 years to life with the possibility of parole for assault with a firearm. His minimum parole eligibility date was March 11, 2004.

3. On May 6, 2020, the Board of Parole Hearings considered Petitioner's suitability for release. For the fifth consecutive time, the Board found that he would not pose an unreasonable risk to society and granted parole. After the Board finalized its decision, Governor Newsom reversed it on September 18, 2020.

4. Petitioner petitions this Court to reverse the Governor's unlawful decision to reverse his parole grant, reinstate the Board's parole grant, and order him released from prison.

II.

PARTIES

5. Petitioner Rene Enriquez is a prisoner of the California Department of Corrections and Rehabilitation, housed at Ironwood State Prison.

6. Respondent Neil McDowell is the Warden at Ironwood State Prison, and thus is Petitioner's legal custodian as long as he remains incarcerated there.

7. Respondent Gavin C. Newsom is the Governor of the State of California. Governor Newsom unlawfully invoked his authority under article V, section 8, of the California

1 Constitution and Penal Code Section 3041.2 to reverse Petitioner’s fifth parole grant from the
2 Board.

3 **III.**

4 **STATEMENT OF SUBJECT MATTER AND TERRITORIAL JURISDICTION**

5 8. A habeas petition that challenges a determination that a person is unsuitable for
6 parole must be initially heard and decided by a court in the county that rendered the judgment of
7 conviction. (*In re Roberts* (2005) 36 Cal.4th 575, 587.) Petitioner’s conviction was rendered in
8 Los Angeles County, therefore he submits this petition in the Los Angeles Superior Court.

9 **IV.**

10 **STATEMENT OF FACTS**

11 **A. The Life Crime**

12 9. On March 25, 1993, Petitioner was received into CDCR custody for two
13 concurrent terms of life with the possibility of parole for each of two counts of second degree
14 murder. (Ex. A, Petitioner’s 2020 Board of Parole Hearings Master Packet, at p. 1.)¹ Petitioner
15 was also sentenced to a concurrent term of life for assault with a firearm, and to five years in
16 prison for conspiracy to transport or sell controlled substances. (*Ibid.*) His minimum eligible
17 parole date was March 11, 2004. (*Ibid.*) The facts of the life crime, as set forth by the Board and
18 by the Governor, are not disputed by the Petitioner.

21 ¹ In the interest of brevity, several of the exhibits (A, B, D, and G) attached hereto are
22 excerpts of lengthier documents that were included in Petitioner’s parole record. All citations to
23 these exhibits refer to the Bates number that Counsel has appended to the bottom right-hand
24 corner of the exhibit. Counsel is in possession of full-length versions of all excerpted documents
25 that are attached as exhibits, and will provide these versions to the Court and opposing counsel
upon request.

1 10. Petitioner joined the Mexican Mafia in 1985, during a previous term of
2 incarceration at Folsom State Prison, serving terms for forcible rape and armed robbery. (Ex. B,
3 2018 Parole Suitability Hearing Transcript, at p. 1; Ex. A at p. 6.) In 1989, Petitioner was trying
4 to gain control of a specific area in Boyle Heights, California, and was out of custody on parole.
5 (Ex. C, 2020 Parole Suitability Hearing Transcript, at p. 22; Ex. A at p. 6.) He suspected that
6 Cynthia Galvadon, who was dealing drugs for the Mexican Mafia, was stealing drugs and
7 keeping money. (See Ex. B at p. 2.)² He instructed a fellow Mexican Mafia member to kill her
8 and gave him a gun. (Ex. A at p. 3 [Probation Officer’s Report].) Ms. Galvadon was killed on
9 December 23, 1989. (*Id.* at p. 2.)

10 11. On December 30, 1989, on the orders of superiors within the gang, Petitioner
11 killed David Gallegos, a Mexican Mafia member who had fallen out of favor with the gang. (*Id.*
12 at p. 8 [Police/Arrest Reports]; Ex. C at p. 27-28.) Petitioner and other gang associates injected
13 Mr. Gallegos with heroin and cocaine, which incapacitated him. (Ex. B at p. 3.) They then drove
14 Mr. Gallegos to an alley, where Petitioner shot him multiple times. (*Ibid.*)

15 12. Before Petitioner was arrested for the life offenses, he was arrested in 1990 for
16 perpetrating robbery while on parole. (Ex. A at p. 124 [2010 Comprehensive Risk
17 Assessment].) On July 16, 1991, Petitioner and another Mexican Mafia member, Benjamin
18 Peters, were handcuffed in the attorney room at the Los Angeles County Jail with Salvador
19 Buenrostro, a Mexican Mafia member who had fallen out of favor with the gang. (*Id.* at p. 4
20 [Probation Officer’s Report].) On the orders of superiors within the gang, Petitioner and
21

22
23 ² This individual’s name is spelled inconsistently in the parole record. (Ex. E at pp. 7,
24 16.)

1 Mr. Peters repeatedly stabbed Mr. Buenrostro, who survived the incident. (Ex. C at pp. 30, 33;
2 Ex. A at p. 5 [Probation Officer’s Report].)

3 **B. Petitioner’s Post-Conviction Record**

4 13. Petitioner continued participating in gang activities in prison until a series of
5 changes within the Mexican Mafia convinced him that he could no longer be a member. (Ex. B
6 at pp. 5-7.) These developments, including a new mafia campaign threatening to kill family
7 members, convinced Petitioner that the gang was not about brotherhood but about only “killing
8 and power-grabbing.” (Ex. C at p. 54.) Accordingly, Petitioner debriefed—or permanently
9 disassociated—from the Mexican Mafia through confidential, tell-all conversations with law
10 enforcement beginning on March 22, 2002, at the age of 39. (Ex. B at p. 4.) As Petitioner
11 acknowledged to the Board in a prior suitability hearing, the idea of cooperating with law
12 enforcement was so reviled within his gang that it took him time to reach the difficult decision
13 to drop out. (Ex. D, 2016 Parole Suitability Hearing Transcript, at p. 1 [“I remember they put a
14 video camera up to videotape my initial debriefing, and I started crying It was like
15 renouncing everything that I had, I had become You grow up your whole life in the gang
16 subculture. You don’t rat. That’s the primary rule. So it was a difficult process. . . . [I]t took me
17 a few weeks just to get my mind wrapped around it.”].) Petitioner was further motivated to
18 separate himself from gang culture following conversations with his father, son, and wife, who
19 confronted him with their disgust for his past actions, their desire for him to eradicate gang
20 culture from his life, and their belief that dropping out of the gang would make his life better.
21 (Ex. C at p. 55; Ex. D at pp. 1-2.) He physically removed a Mexican Mafia tattoo from his chest
22 (Ex. C at p. 55), and refused to respond to “Boxer,” his former gang nickname. (Ex. E, 2020
23 Comprehensive Risk Assessment, at p. 4.)

1 14. During this period, Petitioner commenced his unparalleled efforts to assist law
2 enforcement with gang-related investigations and prosecution. (Ex. A at p. 111 [2014
3 Comprehensive Risk Assessment].) His cooperation has, in the view of then-C.D. Cal. U.S.
4 Attorney Andre Birotte, Jr. (now a U.S. District Court Judge) in 2010, literally saved lives. (*Id.*
5 at p. 132 [explaining that as “[a]s a result of Mr. Enriquez’s efforts” in assisting with an
6 investigation of a murder-for-hire plot involving his former cellmate, “[a] jailhouse murder plot
7 was thwarted”].) Between 2002 and 2018, Petitioner received over 80 letters of support from
8 law enforcement members. (*Id.* at pp. 131-41.)³ Notable excerpts include:

- 9 • In 2008, Todd Robinson, then-Assistant United States Attorney, U.S. Department of
10 Justice (now a U.S. District Court Judge), wrote, “It is one thing to merely speak about
11 turning ones’ [sic] life around; Mr. Enriquez has done more than just give lip-service to
12 that concept. He has unalterably alienated himself from his prior criminal associates
13 while providing valuable assistance to the Government in the investigation and
14 prosecution of those same individuals.” (*Id.* at p. 131.)
- 15 • In 2009, Richard W. Kincaid, FBI Special Agent, wrote, “Nearly three years after first
16 meeting Mr. Enriquez, I am convinced in the veracity of his deeply held desire to have a
17 positive impact on society Mr. Enriquez continues to prove, inarguably, through his
18 actions, that he is a changed man.” (*Id.* at p. 131.)
- 19 • In 2010, Robert S. Marquez, Special Agent, Special Services Unit, Office of Correctional
20 Safety, wrote, “In my 24 years of law enforcement employment, I am not aware of any
21

22
23 ³ This exhibit compiles excerpts from letters of support that were verified by a CDCR
24 Correctional Counselor. (See Ex. A at p. 131.)

1 individual who has voluntarily assisted law enforcement to the degree, in both quality and
2 quantity, which Rene Enriquez has.” (*Id.* at p. 133.)

- 3 • In 2016, Michael Walker, Special Agent with the California Department of Justice,
4 wrote, “Mr. Enriquez has assisted and trained hundreds of law enforcement officers
5 which, in turn, has increased officer and community safety immeasurably.” (*Id.* at p.
6 137.)

7 Even the California Attorney General’s office—the office that is obliged to defend the
8 Governor’s reversal of parole—retained Petitioner as an unpaid expert in an investigation. (*Id.* at
9 p. 136 [May 20, 2014, letter from Martine N. D’Agostino, Deputy Attorney for California
10 Attorney General Kamala D. Harris].)

11 15. This level of cooperation has yielded immense benefits for law enforcement, but
12 has come at a significant personal cost to Petitioner. As then-Chief of Police of the Los Angeles
13 Police Department Charlie Beck, among others, put it in 2016, “In determining Rene
14 Enriquez’[s] eligibility, I would ask that you consider his deeds over the past 13 years and the
15 danger he has placed himself in to assist law enforcement. This is truly the act of a repentant
16 man and indicative of the value he places on life.” (*Id.* at p. 137.) While incarcerated, Petitioner
17 has faced gang-related threats to his life due to debriefing and cooperating with law
18 enforcement. (Ex. D at pp. 3-4 [Petitioner noting that after he debriefed “[t]here were inmates
19 coming into the facilities saying we know Enriquez is here. He’s an informant. Where is he at?
20 So I went through these series of transfers, like six transfers, and it was very difficult.”].)
21 Although Petitioner has detailed plans to safeguard his and his family’s wellbeing, these risks
22 would continue upon his release from prison. (See Ex. F, 2016 Indeterminate Sentence Parole
23 Release Review, at p. 3 [“He remains an active target for the Mexican Mafia and there are many
24

1 who would go to great lengths to attack Mr. Enriquez because of his high-profile status as a
2 gang dropout.”.) Petitioner continues to cooperate with law enforcement upon their requests for
3 assistance, notwithstanding these risks to his and his family’s safety.

4 16. Petitioner has remained disciplinary-free for the last sixteen years, since 2004.
5 (Ex. E at p. 18.) His exemplary behavior has been recognized in numerous laudatory certificates
6 (also known as “chronos”) authored by employees of the California Department of Corrections
7 and Rehabilitation, including many who comment on the rarity of their authoring laudatory
8 certificates of this nature, such as the following:

9 As an employee of the California Department of Corrections and Rehabilitation
10 (CDCR) I do not often author laudatory chronos on behalf of inmates. I believe
11 that only exceptional displays of change and positive behavior merit
12 documentation. In the case of Inmate Enriquez, H-69471, I have found that he
13 exemplifies the definition of “model inmate.” . . . He has become a positive role
14 model in the ISP Rehabilitative Community and it is my opinion that he is an
15 excellent candidate for parole. I have had an extended period of time to monitor
16 and observe his behavior and have found that he is sincere, transparent, and
17 authentic in his efforts and willingness to participate in the rehabilitative self-help
18 programs at Ironwood State Prison (ISP), and in using his personal experiences to
19 forge lasting positive impressions on the General Population of Bravo Facility.

20 (Ex. A at p. 44 [Laudatory Chrono]; see *id.* at pp. 10-59.) These laudatory certificates have
21 emphasized Petitioner’s willingness to help prison staff maintain an orderly environment (see,
22 e.g., *id.* at p. 18 [Laudatory Chrono] [commending Petitioner for discovering and turning in
23 “dangerous contraband” to the potential weapon stock at Ironwood State Prison (ISP),
24 “enhanc[ing] the safety and security” of the institution, and stating that he “will be a productive
25 member of the community once released on parole”]), even though these actions would put him
at odds with other incarcerated people. In March 2020, the Office of Correctional Safety and the
ISP Institutional Gang Investigator’s Unit “took the rare and extraordinary measure” of
evaluating Petitioner for termination of his validation status of STG-I Inactive Mexican Mafia

1 Dropout, and ultimately recommended him for termination. (Ex. G, 2020 Board of Parole
2 Hearings 10-Day Packet, at p. 41.) In the chrono that was generated on Petitioner’s behalf, ISP
3 Assistant Institutional Gang Investigators noted, “In the history of ISP, ENRIQUEZ is one of
4 only four inmates to ever have this proves [sic] granted and completed.” *Id.*⁴

5 17. In addition to his lengthy history of making amends by assisting law enforcement,
6 Petitioner has been involved in extensive self-help programming during his incarceration and
7 particularly since debriefing in 2002. For example, in 2019 alone he completed six self-help
8 courses, including several courses led by the Jesuit Restorative Justice Initiative and a victim
9 impact workshop focused on empathy, remorse, amends, and insight. (Ex. A at pp. 60-61, 65.)
10 Petitioner has received many more certificates of completion and appreciation for his
11 participation in courses related to accountability and responsibility, alternatives to violence,
12 parenting, and substance abuse counseling. (*Id.* at pp. 66, 68, 70-71.)

13 18. Beyond self-help courses, Petitioner has taken on independent studies of
14 restorative justice and has written book reports, reflective essays, and detailed relapse
15 prevention plans. (*Id.* at pp. 62, 142-204.) Petitioner has also written extensively on topics such
16 as his twelve-steps work for Narcotics Anonymous and Alcoholics Anonymous, victim impact
17 and remorse, and the link between his need for attention and criminality. (*Id.* at pp. 167-76, 189-
18 91; Ex. G at pp. 29-35.) Additionally, in preparation for the 2020 BPH hearing, Petitioner
19 submitted detailed relapse prevention plans about sexual abuse, gangs and criminal behavior,
20 anger, and stress/anxiety after extended incarceration. (Ex. A at pp. 142-62, 199-204; Ex. G at
21

22 ⁴ Ironwood State Prison has been operating for over 25 years. (See Ironwood State Prison
23 (ISP), California Department of Corrections and Rehabilitation, [https://www.cdcr.ca.gov/facility-
24 locator/isp/](https://www.cdcr.ca.gov/facility-locator/isp/).) The Court may take judicial notice of this fact. (See, e.g., *In re Arroyo* (2019) 37
25 Cal.App.5th 727, 730, fn. 2 [judicially noticing CDCR’s records].)

1 pp. 1-12.) In addition to these relapse prevention plans, Petitioner submitted supplemental
2 resources related to re-entry support, including online drug and alcohol treatment programs,
3 tattoo removal services, and information about job opportunities and support for formerly
4 incarcerated students. (Ex. G at pp. 13-25.)

5 19. Finally, Petitioner has served as a mentor for numerous incarcerated individuals,
6 including through the Youthful Offender Program. (See Ex. A at p. 211 [Letter from Oscar
7 Salcedo, formerly incarcerated individual: “From the moment I met Rene I have been witness to
8 how he comes out of his cell everyday to help other prisoners through his testimony, mentoring,
9 and words of encouragement to those in need.”]; *id.* at p. 213 [Letter from Mitch W. Highly,
10 formerly incarcerated individual: “Mr. Enriquez has put an honest effort to give back to the
11 younger generation using his experience to help turn the tide for these young men involved in
12 the Youthful Offender Program. I have personally witnessed on multiple occasions where he
13 has helped the youth defuse situations that could have ended up with negative consequences.”].)
14 Those who have spent time with Petitioner and have mentored youth alongside him—including
15 *Petitioner’s former enemies*—attest to “[h]ow much Rene has changed.” (*Id.* at p. 208 [Letter
16 from Edward A. Luna, formerly incarcerated individual, written the same morning that
17 Mr. Luna was released from prison after 39 years].)

18 **C. The 2020 Comprehensive Risk Assessment**

19 20. Prior to Petitioner’s 2020 parole hearing, Dr. Wendy Chan, a forensic
20 psychologist employed by the Board of Parole Hearings, conducted an evaluation of Petitioner
21 to determine his risk for violence upon release and compiled her findings in a Comprehensive
22 Risk Assessment (CRA). (See Ex. E at p. 21.) Portions of the 21-page report that are relevant to
23 this petition are discussed below.

1 21. Dr. Chan first conveyed information regarding Petitioner’s adolescence and adult
2 development. Petitioner “reported an extensive history of childhood behavior problems and
3 juvenile delinquency,” as well as suffering from sexual abuse perpetrated by his oldest brother.
4 (*Id.* at pp. 3-4.) When he was 12 years old, Petitioner was forced to join his brother’s street
5 gang, which involved the gang “beat[ing] the bark off [him].” (*Id.* at p. 4.) As Petitioner became
6 involved with the gang, he discovered that he enjoyed the “praise, status, and positive feedback”
7 that he received from his gang-related peers when he engaged in antisocial, illicit activities. (*Id.*
8 at p. 5.) Dr. Chan described Petitioner’s lengthy rap sheet as a young adult, including
9 kidnapping, armed robbery, burglary, and taking a motor vehicle without the owner’s consent.
10 (*Id.* at pp. 6-7.) Additionally, during his current period of incarceration, while still involved with
11 the Mexican Mafia, Petitioner incurred a new conviction for conspiracy to transport/sell
12 controlled substances. (*Id.* at p. 7.) Petitioner also “acknowledged a significant history of
13 violence prior to the instant offense[s], including rape, robbery, gang-related shootings, several
14 assaults, carrying weapons, and significant gang-related violence beginning at an early age.”
15 (*Ibid.*)

16 22. With respect to sexual misconduct, Petitioner described committing two acts in
17 his lifetime: forcible rape of a teenage girl when he was 17 years old, and forcing a fellow
18 incarcerated person into sexual acts when Petitioner was 22 or 23 years old, shortly after he had
19 become a Mexican Mafia member. (*Id.* at pp. 5-6.) He reported no history of prostitution, sex
20 with minors, viewing pornography involving illicit sex acts, or having sexual fantasies
21 involving such acts. (*Id.* at p. 5.)

22 23. After reviewing prior psychological evaluations, Dr. Chan reported the results of
23 her mental status examination of Petitioner. In her view, Petitioner’s behavior was
24

1 “appropriate,” with “no overt signs of significant depression or mania” and “no evidence of a
2 thought disorder.” (*Id.* at p. 9.) She noted that Petitioner was “polite” and “cooperative.” (*Ibid.*)

3 24. As to substance abuse, Dr. Chan wrote that Petitioner reported that at age 13, he
4 had begun drinking alcohol regularly. (*Ibid.*) He began using marijuana at age 12 and heroin at
5 age 16. (*Ibid.*) By age 17, he used heroin intravenously daily, and used other illicit substances
6 such as LSD and PCP throughout his late teens and twenties. (*Id.* at p. 10.) He reported that he
7 has not used any illicit substance since 2005. Dr. Chan reported that his record included several
8 substance-abuse disorders, all of which were now “in sustained remission.” (*Ibid.*)

9 25. Dr. Chan concluded that at present, “[b]ased on a review of available records and
10 clinical observations during the current evaluation,” a diagnosis of antisocial personality
11 disorder (ASPD) with narcissistic features was appropriate for Petitioner. (*Id.* at pp. 11-12.)

12 Dr. Chan explained that

13 Mr. Enriquez exhibited evidence of Conduct Disorder prior to age 15, and
14 continued to demonstrate criminal behavior, deceitfulness, impulsivity,
15 aggressiveness, disregard for the safety of himself and others, irresponsibility, and
16 lack of remorse well into adulthood. Notably, personality disorders are pervasive
17 and enduring by nature, and often resistant to treatment efforts. As previously
18 noted, he received the specifier of “with narcissistic features” during his 2017
19 CRA. This also appears to be appropriate as Mr. Enriquez has consistently
20 displayed traits in which he craved attention and status, had a significant sense of
21 entitlement, and a dearth of empathy.

22 (*Id.* at p. 11.)

23 26. Notably, Dr. Chan did not state that Petitioner had displayed any of these traits
24 during her present, individual evaluation of him, or that he has displayed antisocial behavior
25 anytime recently. (See *ibid.*) Furthermore, she qualified the above assessment with the DSM-5’s
recognition that an individual with ASPD is likely to exhibit less antisocial behavior by age 40.
(*Ibid.*) (Petitioner is now 58 years old.) Dr. Chan noted specifically that Petitioner “appears to be

1 engaging in less antisocial behavior as he ages and these maladaptive traits are not as
2 pronounced as they were in the past.” (*Id.* at p. 11.) She also stated that “in order to conclude that
3 these antisocial character aspects have been fully resolved,” Petitioner would “need to display a
4 protracted period of predominantly pro-social behaviors under community standards,” given that,
5 he has been in a “structured, secure environment for several years.” (*Ibid.*) Nowhere did
6 Dr. Chan state that Petitioner’s present diagnosis could make him an elevated risk for violence.

7 27. With respect to mental or personality disorders, Dr. Chan also reported that
8 Petitioner “has never met inclusion criteria for the Mental Health Services Delivery System . . .
9 at any level of care during his incarceration.” (*Id.* at p. 10.) She reported that “[n]o evidence of
10 psychotic symptoms, mood issues, or other signs of major mental illness have been noted in
11 available records,” and that “during the current evaluation, no overt signs or symptoms of a
12 severe mental disorder were observed.” (*Ibid.*) Dr. Chan reported that starting in 2016 and
13 continuing until January 2020, Petitioner received individual therapy “to help him gain insight,”
14 including “cognitive behavioral therapy (CBT) to assist him in restructuring negative thoughts
15 and schemas and moved toward developing insight into his antisocial personality disorder with
16 narcissistic features (a diagnosis applied to him during his 2017 CRA).” (*Id.* at pp. 10-11.)
17 Dr. Chan noted that Petitioner did not receive a formal diagnosis through these therapy sessions.
18 (*Ibid.*)

19 28. Dr. Chan then considered Petitioner’s post-conviction record, including the
20 information discussed *supra* Part IV.B, including his lack of violent behavior since 1997, lack of
21 any serious rule violation since 2004, sustained involvement in self-help and educational groups,
22 and cooperation with law enforcement. (*Id.* at pp. 12-13.) Dr. Chan noted Petitioner’s “somewhat
23 unique” parole plans, given his at-risk status because of his cooperation with law enforcement,
24

1 and observed that he “was able to realistically discuss some of the challenges he may face when
2 is granted parole.” (*Id.* at pp. 13-14.) Dr. Chan also noted that Petitioner has close relationships
3 with his wife, three of his four sons (he is estranged from one son, who “had drug problems” and
4 spent time in prison), his sisters, and other family members, as well as law enforcement officers,
5 clergy members, and “re-entry people.” (*Id.* at p. 6.)

6 29. Dr. Chan then reached her assessment of Petitioner’s risk for violence. Beginning
7 with Petitioner’s “historical factors,” Dr. Chan found that although he “displayed nine out of 10
8 of the predictive factors” for future violence, “the current relevance of all of these factors is
9 low.” (*Id.* at p. 14.) Dr. Chan reviewed the aforementioned progress that Petitioner has made in
10 recent decades, and found that “he has moved as far away from gang participation as possible.”
11 (*Ibid.*) She then described his historical displays of personality traits and behaviors consistent
12 with his diagnosis of ASPD with narcissistic features. (*Id.* at p. 15.)

13 After reviewing Petitioner’s historical risk factors, Dr. Chan made the following findings:

14 In the *Clinical* domain, which reflects current behavior and functioning, Mr.
15 Enriquez displayed **no predictive factors for recidivism at this time**. He has
16 shown willingness to conform to supervision, with no evidence of aggression,
17 impulsivity, or rebellion against authority for over a decade. He disassociated
18 from antisocial individuals and has worked to establish positive relationships with
19 both peers, law enforcement officers, and staff.

18 (*Ibid.* (emphasis added).) Dr. Chan noted that “[a]lthough Mr. Enriquez’s insight into the sexual
19 offending in particular lacks depth, he does have adequate awareness into the driving forces
20 behind his behavior.” (*Ibid.*) She also acknowledged that “due to his ingrained patterns of
21 antisocial and narcissistic thinking and behavior . . . , some of the prosocial changes he has made
22 may not have been altruistic,” referring to Petitioner’s receipt of “benefits not generally given to
23 inmates in CDCR because of his cooperation with law enforcement” and “notoriety for his
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1 participation.” (*Ibid.*) At the same time, Dr. Chan concluded that this cooperation was “a
2 prosocial substitute for his need for approval and status.” (*Id.* at p. 20.) Dr. Chan also recognized
3 that Petitioner “tends to present as a ‘smooth talker’ who is facile with communication,” and that
4 “[h]e is bright and has adequate resources to research what he believes is expected of him and
5 address the issues the parole board and the governor have raised in the past.” (*Id.* at p. 15.) In
6 Dr. Chan’s view, “[t]hese tendencies may detract from some of the gains he has made or call into
7 question whether he has truly internalized and committed to what he has learned.” (*Ibid.*) But
8 Dr. Chan recognized that Petitioner’s “current behavior in custody is likely an indication of how
9 he may conduct himself in the community in order to maintain that status.” (*Ibid.*) And she
10 concluded that “his behavior indicates that whatever his motivations may be, he has been capable
11 of managing his behavior, taking in feedback from his hearings and the governor’s denials of his
12 parole grants, and addressing the issues adequately.” (*Ibid.*) She highlighted Petitioner’s
13 “acceptance, responsibility, and . . . remorse for his actions,” as well as an “understanding of the
14 personal, interpersonal, and contextual factors that contributed to this antisocial and violent
15 behavior.” (*Id.* at pp. 15-16.)

16 30. Dr. Chan then included a brief discussion of Petitioner’s risk of sexual reoffense,
17 finding that the Static-99R actuarial instrument “placed him in the Above average-risk category
18 relative to other sex offenders,” though Dr. Chan did not document Petitioner’s actual score. (*Id.*
19 at p. 19.) Dr. Chan then offered several caveats to the Static-99R assessment, noting that “his
20 score may not fairly represent his risk as his age at the time of release for the index was 21,” that
21 he had not reoffended in over 35 years, and that “his score is likely slightly inflated.” (*Ibid.*)

22 31. Upon consideration of all the evidence and her in-person evaluation of Petitioner,
23 Dr. Chan concluded that Petitioner “represents a **Low risk for violence**,” and would be
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1 “expected to commit violence much less frequently than other parolees.” (*Id.* at p. 20 (emphasis
2 added).) Dr. Chan then clarified that Petitioner’s “several historical factors” related to a risk of
3 violence “appear to be less relevant at the present time as a result of advanced age and the
4 behavioral improvement he has accomplished while in custody.” (*Ibid.*)

5 **D. 2020 Parole Hearing**

6 32. On May 6, 2020, the Board found Petitioner suitable for parole, marking his fifth
7 consecutive determination of suitability. (Ex. C at p. 131.) Presiding Commissioner Long noted
8 that the factors aggravating Petitioner’s risk were “outweighed significantly” by the factors that
9 mitigated his risk. (*Id.* at pp. 131-32.) These mitigating factors included the CRA determination
10 of low risk for future violence, the participation in “significant self-help programming,” three
11 years of therapy, college coursework, remorse letters, book reports, and institutional behavior.
12 (*Id.* at pp. 132-33.) Presiding Commissioner Long stated that Petitioner’s institutional behavior,
13 which included “no misconduct whatsoever in over 15 years and no violence in 23 years,” went
14 above and beyond rule-following and was “meritorious.” (*Id.* at p. 133.)

15 33. The Board found that Petitioner had “clearly demonstrated change” and
16 meaningfully addressed the Governor’s concerns. (*Id.* at p. 133-34.) Presiding Commissioner
17 Long noted, “It’s very clear that [Petitioner] took the Governor’s concerns in the 4/12/19 reversal
18 letter to heart and then [Petitioner] worked diligently in the intervening time to address those
19 issues.” (*Id.* at p. at 133.) After Petitioner noted that he had been sober for 14 years, Deputy
20 Commissioner Denvir added that despite serious setbacks in the last few years, Petitioner had not
21 had a single alcohol or drug relapse. (*Id.* at pp. 52, 137.) The Board further found Petitioner to be
22 “open, honest,” and accepting of “full responsibility without minimizing.” (*Id.* at p. 134.) The
23 Board found that Petitioner demonstrated humility as well as “deep insight” into the causative
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1 factors of his crimes. (*Ibid.*) Finally, the Board found that Petitioner had created “concrete
2 realistic parole plans” including “stable housing, prospective employment, prosocial support, and
3 . . . realistic relapse prevention plans.” (*Id.* at pp. 134-35.)

4 **E. The Governor’s Reversal Decision**

5 34. On September 18, 2020, Governor Newsom reversed the Board’s decision to
6 grant parole. (Ex. H, 2020 Indeterminate Sentence Parole Release Review, at p. 3.) After
7 recounting the facts of the commitment offense and Petitioner’s extensive rehabilitative efforts,
8 including “ha[ving] been commended by law enforcement officers and prosecutors for his
9 efforts” (*id.* at p. 1), the Governor offered three reasons for his reversal. First, the Governor
10 described Petitioner’s “extensive history of violent and sexually violent behavior both in and out
11 of custody,” and reasoned that this history “elevates his current risk level.” (*Id.* at pp. 1-2.) The
12 Governor also stated that Petitioner’s “violent conduct for his personal gain continued until he
13 began assisting law enforcement, which resulted in favorable treatment.” (*Id.* at p. 2.) Second,
14 the Governor reasoned that in light of Petitioner’s historical “manipulative behavior” and the
15 reviewing psychologist’s suggestion that “some of the prosocial changes he has made may not
16 have been altruistic,” Petitioner had not adequately shown that his progress “represent[ed] an
17 authentic and enduring transformation in thought and conduct.” (*Ibid.*) Finally, the Governor
18 highlighted what he described as Petitioner’s “current risk factors,” selectively quoting a portion
19 of a sentence from the CRA regarding “significant personality disorder traits, substance abuse
20 issues, extremely negative/violent attitudes, involvement with antisocial individuals, and limited
21 insight into these issues,” as well as a “‘slightly’ overstate[d]” risk of sexual reoffense. (*Ibid.*)
22 The Governor concluded that Petitioner “must show additional progress before he can be
23 released without undue risk to public safety.” (*Ibid.*)

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V.

CONTENTION

The Governor’s reversal of the Board’s grant of parole violated Petitioner’s due process rights because no evidence in the record supported the Governor’s suitability determination. First, the Governor pointed to no evidence that Petitioner’s criminal history many years ago is predictive of his current dangerousness. Second, the Governor improperly resorted to base speculation that Petitioner’s remarkable and long-standing commitment to rehabilitation, making amends, and giving back to the community—including putting his and his family’s lives at risk by debriefing from the Mexican Mafia and providing substantial and sustained assistance to law enforcement—was a ploy to “game the system for his needs.” (Ex. H at p. 2.) Third, the Governor relied on a host of risk factors that were taken out of context from the Comprehensive Risk Assessment and that were based on immutable and historical—not current—events that are not relevant to determination of Petitioner’s current dangerousness.

VI.

PRAYER FOR RELIEF

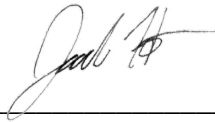
Petitioner is without a remedy save by writ of habeas corpus.

WHEREFORE, Petitioner prays that this Court:

1. Issue an Order requiring Respondents to show cause why Petitioner is not entitled to relief;
2. Declare the rights of the parties;
3. Vacate the Governor’s reversal and reinstate the Board’s parole grant, ordering it to be enforced forthwith; and
4. Grant all other relief necessary to promote the ends of justice.

1 Dated: April 22, 2021

2 Respectfully submitted,

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4 _____
5 Jacob J. Hutt
6 Rita Lomio

7 PRISON LAW OFFICE

8 Attorneys for Petitioner Rene Enriquez
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1 **VERIFICATION**

2 I, Jacob J. Hutt, state:

3 My office represents Petitioner Rene Enriquez in this action. I have read the foregoing
4 Petition for Writ of Habeas Corpus and the facts stated therein are true of my own knowledge,
5 except as to matters that are therein stated on my own information and belief, and as to those
6 matters I believe them to be true.

7 I make this verification on behalf of Petitioner because he is incarcerated in Riverside
8 County and is therefore outside of Alameda County, where my office is located.

9 I declare under penalty of perjury that the foregoing is true and correct and that this
10 verification was executed on April 22, 2021, in Berkeley, California.

11 
12 _____
13 Jacob J. Hutt

14 PRISON LAW OFFICE

15 Attorney for Petitioner Rene Enriquez
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **INTRODUCTION**

3 “It is one thing to merely speak about turning ones’ life around; Mr. Enriquez has done
4 more than just give lip-service to that concept. He has unalterably alienated himself from his
5 prior criminal associates while providing valuable assistance to the Governor in the investigation
6 and prosecution of those same individuals.” (Ex. A at p. 131.) This quote comes not from the
7 closing statement of Petitioner’s parole attorney at his most recent parole hearing, where he was
8 granted parole for the fifth time in a row, but from then-U.S. Attorney Todd Robinson, now a
9 U.S. District Court Judge, who wrote in thanks to Petitioner for his remarkable cooperation with
10 law enforcement after severing his ties with the Mexican Mafia. Superlative admiration for
11 Petitioner’s willingness to put himself in harm’s way, for the sake of helping law enforcement
12 make the community safer, is ubiquitous in Petitioner’s record. His parole file included more
13 than eighty letters of similar praise from law enforcement at all levels of government: multiple
14 Chiefs of Police at the Los Angeles Police Department; six deputy D.A.s at the Los Angeles
15 District Attorney’s office, which prosecuted him; three former U.S. Attorneys, two of whom are
16 now federal judges, the other of whom is a judge on the San Diego County Superior Court; an
17 array of Los Angeles County Sheriff’s Department sergeants; the deputy director of the National
18 Gang Intelligence Center; and officers at the FBI, California Department of Justice, and
19 California Department of Corrections and Rehabilitation. Even the California Attorney General’s
20 office—the same office that is obliged to respond to this petition in support of the Governor—
21 has praised Petitioner for his assistance. Against this mountain of support from law enforcement
22 for Petitioner, including one former U.S. Attorney’s letter literally crediting Petitioner with
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1 helping thwart a jailhouse murder plot, there is simply zero evidence to support the Governor's
2 conclusion that Petitioner remains an unreasonable risk of violence to the public.

3 Rather than point to evidence in the record, the Governor bases his reversal not upon
4 what Petitioner has accomplished over the last two decades, but upon the motives that led him to
5 putting his life and the lives of his family members at risk to help law enforcement make the
6 community safer. That one of Petitioner's initial motives was to receive attention does not
7 diminish his decades of extraordinary accomplishments and dedication to improving the lives of
8 others. The Governor implies, without support in the record, that Petitioner was gaming the
9 system by hoping that his commendable behavior would one day result in his release. But none
10 of the facts in the record support this inference, let alone an inference that Petitioner poses, at
11 present, an unreasonable risk of violence. Scores of the law enforcement officers who knew and
12 worked with him had the opposite reaction to Petitioner's willingness to cooperate, and none
13 have echoed the Governor's cynicism. And the Board of Parole Hearings psychologist, whose
14 Comprehensive Risk Assessment the Governor cites for support, concluded that Petitioner poses
15 a low risk of violence, and further concluded that if anything, Petitioner's desire for attention
16 from law enforcement was a "prosocial substitute for his need for approval and status." (Ex. E at
17 p. 20.) Without question, the Governor is entitled to his cynical view about why Petitioner has
18 been motivated to lend unprecedented support to law enforcement. But such speculation, lacking
19 an evidentiary basis and lacking any tether to Petitioner's current risk of violence, cannot justify
20 reversal of parole under existing law.

21 This Court should vacate Governor Newsom's reversal of the Board of Parole Hearings'
22 grant of parole to Petitioner and reinstate the Board's decision granting parole. Under the United
23 States and California Constitutions, the state is prohibited from depriving any person of liberty

1 without due process of law. (U.S. Const., 14th Amend., § 1; Cal. Const., art. I, § 7.) Incarcerated
2 people possess a constitutionally protected liberty interest in parole decisions. (*In re*
3 *Rosenkrantz* (2002) 29 Cal.4th 616, 661.) Under California’s parole system, “the paramount
4 consideration for both the Board and the Governor under the governing statutes is whether the
5 inmate currently poses a threat to public safety and thus may not be released on parole.” (*In re*
6 *Lawrence* (2008) 44 Cal.4th 1181, 1210.) Because “[r]elease on parole is the rule, rather than the
7 exception” (*In re Ryner* (2011) 196 Cal.App.4th 533, 544), the parole authority must grant parole
8 unless it finds “some evidence” that the person poses a threat of current dangerousness to the
9 public. (*In re Lawrence, supra*, 44 Cal.4th at p. 1212; *Rosenkrantz, supra*, 29 Cal.4th at p. 667;
10 see also Pen. Code § 3041, subd. (b).)

11 It is important to be precise about what the “some evidence” standard means. “[T]he
12 proper articulation of the standard of review is whether there exists ‘some evidence’ that an
13 inmate poses a current threat to public safety, rather than merely some evidence of the existence
14 of a statutory unsuitability factor.” (*In re Shaputis* (2008) 44 Cal.4th 1241, 1254.) Thus, “[s]ome
15 evidence of the existence of a particular factor does not necessarily equate to some evidence the
16 parolee’s release unreasonably endangers public safety.” (*In re Lee* (2006) 143 Cal.App. 4th
17 1400, 1409.)

18 As set forth below, none of the three reasons that the Governor cited for reversing the
19 Board’s grant of parole demonstrated “some evidence” of Petitioner’s current dangerousness.
20 First, the Governor reasoned that Petitioner’s history of violence and sexual offense “elevates his
21 current risk level.” (Ex. H at pp. 1-2.) Petitioner does not deny the gravity of his offenses. But
22 these historical factors, standing alone, may not serve as the basis for a denial of parole (see *In re*
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1 *Lawrence, supra*, 44 Cal.4th at pp. 1218, 1227), and the Governor points to no evidence that
2 Petitioner’s past offenses remain probative of his current risk of dangerousness.

3 Second, the Governor speculated that evidence of Petitioner’s rehabilitation could be
4 misleading because of the Board psychologist’s suggestion in the Comprehensive Risk
5 Assessment (CRA) that ““some of the prosocial changes he has made may not have been
6 altruistic.”” (Ex. H at p. 2; Ex. E at p. 15.) The Governor identified no evidence, however, that
7 Petitioner has failed to demonstrate genuine progress, or that his cooperation with law
8 enforcement or any other markers of rehabilitation are, in any way, indicative of dangerousness.

9 Finally, the Governor selectively quoted the “risk factors” that the psychologist had
10 outlined in the CRA. (See Ex. H at p. 2; Ex. E at p. 19.) The Governor’s characterization of these
11 risk factors as “current,” however, was baseless; nowhere in the CRA did the Board psychologist
12 suggest that these risk factors were based on current or recently observed behavior. Even with
13 respect to Petitioner’s diagnosis of antisocial personality disorder (ASPD) (his only mental
14 health diagnosis), the psychologist found that “[n]o evidence of psychotic symptoms, mood
15 issues, or other signs of major mental illness have been noted in available records,” and that
16 “during the current evaluation, no overt signs or symptoms of a severe mental disorder were
17 observed.” (Ex. E at p. 10.) In fact, after reviewing all relevant information in context, the
18 psychologist concluded that Petitioner represented a low risk of violence. (Ex. E at pp. 10, 20.)
19 The Governor identified no basis for superseding the psychologist’s determination and offered
20 no evidence that Petitioner’s personality disorder itself “poses an unreasonable risk to public
21 safety,” instead relying on an unfounded stereotype that all people with mental health disorders
22 are an unreasonable danger to the community. (*In re Lawrence, supra*, 44 Cal.4th at p. 1204.) At
23 bottom, the Governor mischaracterized certain statements from the CRA, taking them out of
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1 context to support his unfounded speculation, and ignored the full record, including the Board
2 psychologist’s well-reasoned finding that Petitioner poses a low risk of violence.

3 For these reasons, the Court should grant this petition, vacate the Governor’s reversal,
4 and reinstate the Board’s parole grant.

5 ARGUMENT

6 I.

7 **NO EVIDENCE SUPPORTS THE GOVERNOR’S CONCLUSION THAT** 8 **PETITIONER’S CRIMINAL HISTORY DECADES AGO MAKES HIM AN** 9 **UNREASONABLE RISK TO PUBLIC SAFETY TODAY.**

9 The Governor first described Petitioner’s “extensive history of violent and sexually
10 violent behavior both in and out of custody,” and reasoned that this history “elevates his current
11 risk level.” (Ex. H at pp. 1-2.) There is no excuse for the offenses that Petitioner committed
12 decades ago. And it is true that, in certain cases, “the Governor may base a denial-of-parole
13 decision upon . . . immutable facts such as an inmate’s criminal history” (*In re Lawrence*,
14 *supra*, 44 Cal.4th at p. 1221, citation omitted.) But “some evidence will support such reliance
15 *only* if those facts support the ultimate conclusion that an inmate *continues* to pose an
16 unreasonable risk to public safety.” (*Ibid.*, original italics, citing Cal. Code Regs., tit. 15, § 2281,
17 subd. (a).) “The nexus to current dangerousness is critical.” (*In re Perez* (2017) 7 Cal.App.5th
18 65, 84; see also *In re Scott* (2005) 133 Cal.App.4th 573, 595, quotation marks and citations
19 omitted [noting that reliance on immutable factors “without regard to or consideration of
20 subsequent circumstances . . . runs contrary to the rehabilitative goals espoused by the prison
21 system”].) The Governor must conduct an individualized inquiry that “cannot be undertaken . . .
22 without consideration of the passage of time or the attendant changes in the inmate’s
23 psychological or mental attitude.” (*In re Shaputis*, *supra*, 44 Cal.4th at p. 1255.)

1 Here, it is undisputed that Petitioner has not exhibited violent behavior since 1997, over
2 two decades ago. (Ex. E at p. 12; see *In re Roderick* (2007) 154 Cal.App.4th 242, 277 [noting the
3 “diminishing predictive value for future conduct” of a petitioner’s 19-year-old criminal history];
4 *In re Elkins* (2006) 144 Cal.App.4th 475, 498 [“Given the lapse of 26 years and the exemplary
5 rehabilitative gains made by Elkins over that time, continued reliance on these aggravating facts
6 of the crime no longer amount to ‘some evidence’ supporting denial of parole.”].)

7 Moreover, the Governor “failed to articulate why [Petitioner’s criminal history]
8 demonstrates that he poses an unreasonable risk of danger if released.” (*In re Rodriguez* (2011)
9 193 Cal.App.4th 85, 100 [granting petition and vacating Governor’s decision based on 25-year
10 old criminal history].) Notably, the Governor failed to explain why he apparently believed that
11 Petitioner’s immutable historical conduct had any “predictive value for future conduct.” (*In re*
12 *Roderick, supra*, 154 Cal.App.4th at p. 277) The Governor identified nothing in Petitioner’s
13 “current demeanor and mental state” to support such a conclusion. (*In re Lawrence, supra*, 44
14 Cal.4th at p. 1214.) Indeed, he could not. It is undisputed that Petitioner has made significant
15 efforts and demonstrated remarkable positive changes in the intervening decades, including by
16 debriefing from the Mexican Mafia, providing outstanding support for law enforcement,
17 engaging in extensive rehabilitative programming, and mentoring others to prevent them from
18 going down the same path he did. Nor did the Governor suggest that Petitioner has engaged in
19 violent conduct within recent memory—indeed, to the contrary, he recognized Petitioner’s
20 herculean efforts to help law enforcement investigate and prosecute those who engage in such
21 conduct. (Ex. H at p. 1.) There is no evidence that Petitioner’s decades-old misconduct is
22 probative of a present, unreasonable risk that he poses to public safety, so the Governor’s
23 decision cannot be sustained on this historical basis alone.

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II.

THE GOVERNOR RESORTED TO BASE SPECULATION THAT PETITIONER'S REHABILITATIVE PROGRESS MAY NOT BE GENUINE.

The Governor's second reason for reversing the Board's parole grant was that, in the Governor's estimation, it is possible that Petitioner's demonstrated progress and decades-long commitment to rehabilitation and assisting law enforcement is all a farce. Quoting the Board psychologist, the Governor remarked that "'some of the prosocial changes [Petitioner] has made may not have been altruistic.'" (Ex. H at p. 2.) Apart from baselessly speculating that "some" (undefined) amount of Petitioner's progress is not genuine, the Governor again fails to provide any nexus to *dangerousness*, the operative issue in a suitability determination. And on a practical level, the Governor's reasoning places Petitioner in a Kafkaesque bind that simultaneously discourages Petitioner from exhibiting more progress, because the Governor will regard such demonstrations of progress as faked, while faulting him for his failure to "do more." (Ex. H at p. 2.)

A. No Evidence Supports the Governor's Guesswork Regarding the Genuineness of Petitioner's Rehabilitation.

The first problem with the Governor's reasoning is that, contrary to governing law, it constitutes impermissible speculation about whether or not Petitioner has engaged in genuine rehabilitation. A Governor's decisions "must be supported by some *evidence*, not merely by a hunch or intuition." (*In re Lawrence, supra*, 44 Cal.4th at p. 1213, emphasis in original.) Courts may not uphold a Governor's determination when it is based only on "speculat[ion] about a possible 'what-if' scenario" (*In re Loesch* (2010) 183 Cal.App.4th 150, 163; see also *In re Ryner, supra*, 196 Cal.App.4th at p. 551 [granting petition and noting that Governor's decision was "based on no more than speculation"].) In order to deny parole based on a shortcoming of a

1 would-be parolee’s rehabilitative efforts, the Governor must point to specific evidence of
2 inadequacy. (See *In re Ryner, supra*, 196 Cal.App.4th at p. 551 [“The Governor faulted Ryner
3 for failure to take more anger management courses, but there is no evidence that more course
4 were available, or as demonstrated above that he needed more courses to deal with anger
5 management issues.”].)

6 Here, the Governor improperly “base[d] his findings on hunches, speculation, or
7 intuition.” (*Ibid.*) He relies on the Board psychologist’s observation that because of Petitioner’s
8 historical personality disorder, some of Petitioner’s “prosocial changes . . . may not have been
9 altruistic.” (Ex. H at p. 2.) But the Governor identifies no evidence that Petitioner’s dogged
10 efforts at rehabilitation have not been successful. Nor does he explain how this one sentence
11 plucked from the psychologist’s 21-page report can justify overriding the psychologist’s ultimate
12 conclusion that Petitioner represents a low risk of violence. (See *In re Loresch, supra*, 183
13 Cal.App.4th at p. 160 [granting petition and faulting the Governor for having “omitted the
14 qualifier” to a psychologist’s statement about potential dangerousness].)

15 As discussed below, Petitioner fully acknowledges that, in the past, his willingness to
16 provide assistance to law enforcement was driven, at least in part, by his desire for status and
17 attention. The psychologist’s statement and Petitioner’s forthcoming acknowledgment, however,
18 do not support the Governor’s sweeping conclusion that Petitioner’s decades of diverse
19 rehabilitative efforts “may not” be genuine, and that therefore Petitioner is not suitable for
20 parole. The Governor points to no evidence that being motivated, in part, by a desire for external
21 recognition renders Petitioner’s prosocial changes meaningless. Indeed, the Governor fails to
22 acknowledge that the Board psychologist explicitly made clear that her own comments about
23 Petitioner’s desire for attention did not detract from her professional assessment that his

1 prosocial changes have been genuine and that he represents a low risk of violence. As the Board
2 psychologist concluded, “[Petitioner’s] behavior indicates that whatever his motivations may be,
3 he has been capable of managing his behavior, taking in feedback from his hearings and the
4 governor’s denials of his parole grants, and addressing the issues adequately.” (Ex. E at p. 15.) It
5 was improper for the Governor to base his reversal decision on the mere possibility that
6 Petitioner could hypothetically be “gam[ing] the system for his needs.” (Ex. H at p. 2.)⁵

7 **B. Even If There Were Evidence That Petitioner Is Engaged In Rehabilitative Efforts**
8 **In Part Out of a Desire for External Affirmation, the Governor Has Offered No**
9 **Evidence That This Would Make Him Violent.**

10 The second problem with the Governor’s reasoning is that even if there were evidence
11 supporting his speculation that Petitioner is now driven by a desire for external affirmation, the
12 Governor points to no evidence linking this to current *dangerousness*, the operative issue in a
13 parole suitability determination. In other words, even if evidence supported the Governor’s
14 reasoning, it would not support a finding that Petitioner is unsuitable for parole. (See *In re Lee*,
15 *supra*, 143 Cal.App.4th at p. 1408 [“The test is not whether some evidence supports the reasons
16 the Governor cites for denying parole, but whether some evidence indicates a parolee’s release
17 *unreasonably endangers public safety.*”].)

18 In this case, there is no evidence that hypothetical non-altruistic motives currently held by
19 Petitioner make him an unreasonable risk of danger. The only relevant evidence in the record is
20 that, decades ago, when Petitioner first began cooperating with law enforcement, he enjoyed the

21 ⁵ The Governor also ignores the very real danger that people who debrief and collaborate
22 with law enforcement face. (See *supra* Statement of Facts ¶ 15 [detailing threats to Petitioner’s
23 life since debriefing]; *Ashker v. Cate* (N.D. Cal. July 12, 2013) No. 09-CV-05796-CW (NJV),
24 2013 WL 4026971, at *3 [“The court is well aware that revealing the identity of debriefers . . .
25 could put the lives of those individuals and their families at risk.”]; *Wilkinson v. Austin* (2005)
545 U.S. 209, 227 [“Testifying against, or otherwise informing on, gang activities can invite
one’s own death sentence.”].)

1 external affirmation that he received from law enforcement for his assistance. Petitioner openly
2 acknowledged to the Board that, in the past, his cooperative efforts were linked to his desire for
3 recognition. (See Ex. C at pp. 57-58 [“[A]t first it fed my narcissism. I still have, oh, man, I still
4 have some status and some power. I’m still special. . . . [A]t first, I really admit that it was all
5 about my egocentricity, all about . . . receiving accolades, like feeding my own narcissism. But
6 now, nothing could be further from the truth.”].) There is no evidence that, at present, a desire for
7 attention is what drives Petitioner’s remarkable commitment to supporting the efforts of law
8 enforcement. Yet even if there were any evidence that Petitioner is still motivated to cooperate
9 with law enforcement so that he can receive their accolades, there is no evidence tying this to
10 dangerousness. To the contrary, the Board psychologist has explained that, if anything,
11 Petitioner’s desire for affirmation now serves prosocial ends:

12 In some ways, his narcissistic traits serve him well in this area as the current group he
13 seeks status from tend to be lawabiding and even law-enforcing individuals. Thus, he is
14 more likely to try and gain status and seek approval by engaging in prosocial behavior at
 this time in his life.

15 (Ex. E at p. 18; see also *id.* at p. 20 [noting that Petitioner’s cooperation with law enforcement
16 “may not have been altogether altruistic but has been a prosocial substitute for his need for
17 approval and status”].) Nowhere in the Board psychologist’s risk assessment or anywhere else in
18 the record is there evidence that a potential desire for affirmation by law enforcement—the only
19 ulterior motive suggested in the CRA—somehow makes Petitioner an unreasonable risk to public
20 safety.

21 In this case, “the Governor is not drawing rational inferences. He is speculating, i.e.,
22 guessing.” (*In re Loesch, supra*, 183 Cal.App.4th at p. 164.) And even if his speculation about
23 Petitioner’s motives were unqualifiedly correct and based on current evidence (which it is not),
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1 he still would have demonstrated no evidence that Petitioner is *dangerous* to the public. As a
2 result, the Governor’s decision cannot be upheld on that basis.

3 **C. On a Practical Level, the Governor Has Set Petitioner Up For Inevitable (and**
4 **Never-ending) Reversals of Parole.**

5 Apart from the Governor’s baseless speculation and inability to point to any evidence
6 linking Petitioner’s motives to dangerousness, on a practical level he has given Petitioner no
7 indication that there is anything he can do to change the Governor’s mind. He calls upon
8 Petitioner to “do more” to demonstrate the authenticity of his progress. (Ex. H at p. 2.) What
9 more can Petitioner do? His efforts to make amends and to truly grasp the sources of his past
10 misconduct are exhaustive, from his extensive assistance to law enforcement agencies to his self-
11 analytical research into his psyche. (See, e.g., Ex. G at pp. 29-35, 38-40 [Rene Enriquez, Essay:
12 Insight into Narcissism and How These Traits Contributed to my Criminality; Rene Enriquez,
13 Book Report: Erikson’s Stages of Development; Rene Enriquez, Book Report: Understanding
14 and Treating Antisocial Personality Disorder Criminals, Chemical Abusers and Batters].) This
15 includes detailed efforts to understand why, exactly, the Governor has denied him parole in the
16 past and to take action to better gain insight into himself and his past behavior in response.⁶

17
18 ⁶ Petitioner explained to the Board that after his second-most-recent denial by the
19 Governor, he understood that

20 somehow, something wasn’t coming across right. . . [E]ven though the boards had
21 granted my parole, there was something that the Governor was seeing. So, this
22 year, I s[et] about to completely dismantle . . . my presentation. I created an
23 entirely different packet. I did multiple book reports in order to distance myself
24 and learn about antisocial personality disorder, . . . narcissism. I, I read
25 extensively. I had . . . my attorney, Ms. Sheppard, provide me with materials on
sexual deviancy and addressing those issues in terms of identifying with
aggressor, traumatic bonding and replicat[ing] the behavior. I, I did book reports

1 Contrary to his demand that Petitioner “do more,” the Governor has now discouraged
2 Petitioner from doing more to exhibit his progress. After years of reversing the Board’s repeated
3 grants of parole, the Governor has switched from asserting that Petitioner’s insight into his
4 crimes is inadequate to asserting that his progress is too good to be believed. In the Governor’s
5 estimation, Petitioner’s demonstrated “prosocial changes” are suspicious because he is bright,
6 with a history of antisocial behavior, and was able to “research what he believe[d] [wa]s
7 expected of him and address the issues the parole board and the governor have raised in the
8 past.” (Ex. H at p. 2.)⁷ This faults Petitioner for taking the Governor’s past criticism to heart,
9 placing him in a Kafkaesque bind: Exhibit less progress and be deemed inadequate; exhibit more
10 progress and be branded a con artist. This begs the question: Is the Governor calling upon
11 Petitioner to decline law enforcement agencies’ requests for his assistance, given the Governor’s
12 intimation that this assistance is some sort of ruse?⁸ It is unclear who would benefit from such an
13 exercise. Yet following the Governor’s logic, an individual with a history of antisocial or
14 narcissistic behavior must take care not to exhibit too much prosocial progress, lest the Governor
15 grow suspicious.

16
17 _____
18 on, on victims awareness. I took victims awareness courses. I, I participated in
19 prosocial behaviors and empathy building exercises[, among other efforts.]

20 (Ex. C at p. 38.)

21 ⁷ Again, the Governor’s use of these quotations from the CRA inappropriately takes them
22 out of context and ignores the CRA’s conclusion—that Petitioner poses a low risk of violence.
(See *In re Twinn* (2010) 190 Cal.App.4th 447, 472 [granting the petition and criticizing the
23 Governor’s reliance on statements from a psychologist’s evaluation of the petitioner that were
24 “taken entirely out of context”].)

25 ⁸ Petitioner dutifully cooperates with law enforcement upon their request; he does not
seek out opportunities to cooperate. (See Ex. C at p. 43 [“I only testify in cases where the
prosecutors ask me to testify. I don’t solicit cases.”].)

1 The Governor’s denial suggests that, in his view, simply not enough time has gone by,
2 notwithstanding five consecutive findings of suitability by eleven total Commissioners over
3 seven years, and that Petitioner must keep it up for five, ten, or twenty more years before the
4 Governor will believe that Petitioner’s progress is real. This is contrary to governing law. “There
5 is no minimum time requirement” for how long an individual must accept responsibility before
6 becoming suitable for parole. (*In re Elkins*, *supra* 144 Cal.App.4th at p. 495; *In re Lee*, *supra*,
7 143 Cal.App.4th at p. 1414 [“So long as Lee genuinely accepts responsibility, it does not matter
8 how longstanding or recent it is.”].) The same principle applies here: Without identifying
9 something inadequate and predictive of current dangerousness in Petitioner’s rehabilitative
10 efforts, the Governor cannot simply require more time to pass before he believes the efforts are
11 real.

12 In sum, the Governor’s speculation about Petitioner’s motive for engaging in extensive
13 rehabilitative efforts identifies neither evidence of a lack of genuine progress, nor evidence that
14 Petitioner is currently dangerous. Instead, it places Petitioner in a Catch-22 bind which, despite
15 his continued rehabilitative efforts, he will be unable to surmount. The Governor’s decision
16 cannot be upheld on that basis.

17 III.

18 **THE GOVERNOR MISCHARACTERIZED STALE “RISK FACTORS” FROM A** 19 **PSYCHOLOGIST’S REPORT, WHICH FOUND THAT PETITIONER** 20 **REPRESENTS A LOW RISK OF VIOLENCE.**

21 As his final reason for reversing the Board’s fifth grant of parole, the Governor extracted
22 one sentence from the Board psychologist’s 21-page assessment: that Petitioner’s “violence risk
23 appears to be attributable to the following key risk factors: significant personality disorder traits,
24 substance abuse issues, extremely negative/violent attitudes, involvement with antisocial

1 individuals, and limited insight into these issues” (Ex. E at p. 20), as well as a “slightly inflated”
2 risk of sexual reoffense. (*Id.* at p. 19.) The Governor mischaracterizes the psychologist’s
3 assessment in violation of governing law.

4 First, the Governor characterized these as Petitioner’s “current” risk factors. (Ex. H at p.
5 2.) Yet the Board psychologist made the statement while “examining [Petitioner’s] history” and
6 summarizing the risk factors implicated by his decades-old misconduct. (Ex. E at p. 19.) Indeed,
7 and as explained below, the psychologist made clear throughout the CRA that these risk factors
8 were based on historical—not current—behavior, which has not recurred in decades.

9 Second, the Governor ignores the fact that after considering all the evidence, including
10 Petitioner’s **current** behavior and mental state, the psychologist concluded that Petitioner
11 “represents a Low risk for violence,” and would be “expected to commit violence much less
12 frequently than other parolees.” (*Id.* at p. 20.) There is no evidence to support a contrary
13 conclusion, and the Governor is not permitted to reverse a grant of parole by mischaracterizing a
14 single sentence from a psychologist’s assessment that was “not offered as a reason for [the
15 petitioner] to remain incarcerated or to show that [the petitioner] posed a current danger.” (*In re*
16 *Twinn* (2010) 190 Cal.App.4th 447, 472.) As a result, the Governor’s decision must be vacated.

17 **A. “Substance Abuse Issues”**

18 The psychologist observed that substance abuse was a risk factor for Petitioner, but found
19 that his history of substance use ended in 2005. (Ex. E at p. 19; see also *id.* at p. 10 [“Notably,
20 Mr. Enriquez reported that he has not used alcohol, marijuana, or any other substance since
21 December 2005.”].) The Governor does not (and cannot) point to any evidence that Petitioner
22 has ingested any drug or alcohol in fifteen years. Petitioner has demonstrated a commitment to
23 sobriety, going beyond simply attending Narcotics Anonymous and Alcoholics Anonymous

1 meetings by completing independent study and analysis to determine how the teachings of this
2 group can help him stay sober. (See Ex. G at pp. 26-28 [Petitioner’s description of lessons
3 learned from these self-help groups]; Ex. A at pp. 167-76 [“Insight On My Step Work:
4 Incorporating the 12 Steps of NA/AA into my daily walk”].) And the law is clear that “the mere
5 fact an inmate was a former substance abuser” “cannot of itself warrant the denial of parole.”
6 (See *In re Morganti* (2012) 204 Cal.App.4th 904, 921 [“The risk a former drug or alcohol abuser
7 will relapse, which can never be entirely eliminated, cannot of itself warrant the denial of parole,
8 because if it did the mere fact an inmate was a former substance abuser would ‘eternally provide
9 adequate support for a decision that [he] is unsuitable for parole.’ (*In re Lawrence, supra*, 44
10 Cal.4th at p. 1226.)”]; *In re Smith* (2003) 114 Cal.App.4th 343, 371 [“[I]n the absence of some
11 evidence to support a reasonable belief that Smith might start using drugs again, the fact that he
12 used drugs extensively more than 20 years ago does not by itself represent some evidence that he
13 is currently dangerous.”].)

14 **B. “Extremely Negative/Violent Attitudes”**

15 The psychologist makes clear that her identification of “extremely negative/violent
16 attitudes” is a historical risk factor that has now been superseded. (Ex. E at p. 20.) Regarding
17 Petitioner’s **current** disposition, the CRA is unambiguous: “[Petitioner] has shown willingness
18 to conform to supervision, with no evidence of aggression, impulsivity, or rebellion against
19 authority for over a decade.” (*Id.* at p. 15.) In fact, the only other record evidence related to
20 disposition is evidence of Petitioner’s affirmative efforts to further improve himself and prevent
21 relapse, including the psychologist’s observation that Petitioner “received cognitive behavioral
22 therapy (CBT) to assist him in restructuring negative thoughts and schemas” (*id.* at p. 11);
23 Petitioner’s daily relapse-prevention routine, which includes a 12-step program and “pray[ing] to
24

1 keep from slipping into negative patterns” (*id.* at p. 13); and the testimonies of law enforcement
2 officers who commend Petitioner’s thoughtfulness and integrity. (See, e.g., Ex. A at p. 137
3 [former LAPD Police Chief stating, in support of Petitioner’s parole, that the risks Petitioner has
4 taken to serve law enforcement are “indicative of the value he p[l]aces on life”]; *id.* at p. 131
5 [FBI special agent stating, in support of Petitioner’s parole: “I am convinced in the veracity of
6 his deeply held desire to have a positive impact on society.”].) Put simply, and as the
7 psychologist found, there is no evidence that Petitioner currently holds negative or violent
8 attitudes, or that he has “for over a decade.” (Ex. E at p. 15.)

9 **C. “Involvement With Antisocial Individuals”**

10 The psychologist’s identification of Petitioner’s “involvement with antisocial
11 individuals” was—in the psychologist’s own words—exclusively based on Petitioner’s past
12 conduct, not his present behavior. (*Id.* at p. 20.) According to the psychologist, “[Petitioner]
13 disassociated from antisocial individuals and has worked to establish positive relationships with
14 both peers, law enforcement officers, and staff.” (*Id.* at p. 15.) Indeed, the psychologist posited
15 that at present, “the current group he seeks status from tend to be law-abiding and even law-
16 enforcing individuals.” (*Id.* at p. 18.) The Governor’s assertion that Petitioner’s involvement with
17 antisocial individuals is a “current risk factor[.]” based on the CRA therefore is unfounded; the
18 Governor ignores the fact that, according to the CRA itself, Petitioner has successfully
19 disassociated from these individuals. (See *id.* at p. 14 [“[H]e has moved as far away from gang
20 participation as possible as he would not be welcome in any gang after debriefing and testifying
21 against Mexican Mafia members.”]; see also Ex. A at p. 131 [then-AUSA and now-U.S. District
22 Judge Todd Robinson wrote: “[Petitioner] has unalterably alienated himself from his prior
23 criminal associates while providing valuable assistance to the Government in the investigation
24

1 and prosecution of those same individuals.”].) There is no evidence that Petitioner currently
2 poses a risk to society based on his long-terminated involvement with antisocial individuals, and
3 the Governor’s decision therefore cannot be upheld on that basis.

4 **D. “Limited Insight Into These Issues”**

5 The Governor quotes the Board psychologist’s identification of “limited insight into these
6 issues” as a “risk factor” for Petitioner, but provides no further discussion or explanation. (Ex. H
7 at p. 2.) As with the aforementioned risk factors, the psychologist’s reference to insight was not
8 reflective of a *present* concern with Petitioner’s risk of danger to the public. To the contrary, the
9 psychologist reported that Petitioner “conveyed an understanding of the personal, interpersonal,
10 and contextual factors that contributed to his antisocial and violent behavior.” (Ex. E at pp. 15-
11 16.) The psychologist then included an array of Petitioner’s responses to her questions “[t]o
12 demonstrate his thought process and level of insight.” (*Id.* at p. 16.) She later added that
13 Petitioner “has discussed remorse for the harm he caused, and he has shown an increasing
14 appreciation of the causative factors of his past antisocial and violent behavior.” (*Id.* at p. 20.)
15 Even as to his insight into sexual offending, which the psychologist thought “lacks depth,” the
16 psychologist clarified that “he does have adequate awareness into the driving forces behind his
17 behavior.” (*Id.* at p. 15.) The Governor did not identify any evidence indicating that Petitioner
18 presently has “material deficiency in [his] understanding and acceptance of responsibility” for
19 his criminal history. (*In re Ryner, supra*, 196 Cal.App.4th at p. 548.) Nor could he. (See Ex. C at
20 p. 134 [Presiding Commissioner addressing Petitioner, at Petitioner’s 2020 Board hearing:
21 “[The] Panel thought you demonstrated deep insight into the causative factors of your crimes and
22 also demonstrated good insight into how your antisocial personality disorder with narcissistic
23 traits contributed to a gang and criminal behavior.”].)

1 **E. Possibility of Sexual Reoffense**

2 Next, the Governor noted that the Board psychologist “categorized Mr. Enriquez as
3 representing an above-average risk of sexual offense reconviction,” and that in the psychologist’s
4 view, “this categorization only ‘slightly’ overstates his current risk level.” (Ex. H at p. 2.) The
5 psychologist relied exclusively on the Static-99R, which is ““an actuarial instrument that
6 calculates a defendant’s risk of reoffense based on the number of sex offenses, sentencing dates,
7 and convictions for nonsexual violence”” and that ““takes into account the defendant’s age at the
8 time of evaluation and whether any sex offenses were against unrelated victims or strangers.””
9 (*People v. Johnson* (2020) 45 Cal.App.5th 379, 387, quoting *People v. Roa* (2017) 11
10 Cal.App.5th 428, 437.) The instrument is “so named to reflect the tool’s rather singular focus on
11 ‘static’ variables” (Shapiro & Noe, *Risk Assessment: Origins, Evolution, and Implications for*
12 *Practice* (2015) p. 24), as opposed to dynamic variables that may account for the individual’s
13 development and rehabilitation.

14 In this case, it is worth reproducing, in full, how the psychologist qualified her
15 description of what the Static-99R instrument calculated for Mr. Enriquez:

16 It is important to note that this is a purely actuarial instrument based on the
17 lifetime history of the individual. It is also notable that his score may not fairly
18 represent his risk as his age at the time of release for the index offense was 21. He
is currently 57 years old and there is no information to suggest he has sexually
offended since 1986. As such, his score is likely slightly inflated.

19 (Ex. E at p. 19.) Thus, the psychologist unambiguously recognized: (1) that the “above average”
20 risk calculated by the Static-99R captured Petitioner’s risk at the age of 21, not his current risk;
21 and (2) that there is no present or recent evidence to support the theory that Petitioner poses an
22 elevated risk of sexual reoffense. Put simply, the psychologist reported what a static assessment
23 said regarding Petitioner’s risk of re-offense over thirty years ago and then qualified her report to

1 state that this assessment is likely of limited value for determining current dangerousness. The
2 psychologist did not suggest that even “[a] dash of clinical judgment” went into the calculation
3 of Petitioner’s risk level. (*Cooley v. Superior Court* (2002) 29 Cal.4th 228, 238, as modified
4 (Jan. 15, 2003) [alteration in original].) Instead, like his past criminal and substance abuse
5 history, Petitioner’s score on the Static-99R assessment was based solely on “immutable and
6 unchangeable” facts from his past and cannot, without more, sustain a finding of current
7 dangerousness. (*In re Lawrence, supra*, 44 Cal.4th at p. 1227.)⁹ Without any indication that
8 Petitioner’s risk level as a 21-year-old reflects his current risk level, and given Petitioner’s clean
9 record for over thirty years, there is no evidence that Petitioner currently poses an unreasonable
10 risk of sexual reoffense.

11 **F. “Significant Personality Disorder Traits”**

12 The final “risk factor” relied upon by the Governor was Petitioner’s “significant
13 personality disorder traits.” (Ex. E at p. 20.) Again, the Governor mischaracterizes the CRA. In
14 the Board psychologist’s view, “[b]ased on a review of available records and clinical
15 observations during the current evaluation, the most appropriate DSM-5 diagnostic impression at
16 this time appears to be: Antisocial Personality Disorder with Narcissistic Features.” (Ex. E at p.
17 12.) This diagnosis, however, is based in large part on Petitioner’s past actions, not his present
18 behavior, and in any event was not a basis for a finding of current dangerousness—in fact, the

19 ⁹ The Governor’s attempt to rely on an outdated sexual reoffense assessment is further
20 weakened by the fact that the psychologist omitted her calculation of Petitioner’s actual score on
21 the Static-99R instrument from the CRA. As Petitioner explained to the Board, this makes it
22 impossible to evaluate whether the psychologist accurately calculated Petitioner’s score, as well
23 as what conclusions can meaningfully be drawn from it. (Ex. I, Corrections / Rebuttal to 2020
24 CRA, at p. 2.) Petitioner is especially concerned about the accuracy of this calculation given past
25 errors in scoring him on the Static-99R. (*Ibid.* [explaining a prior psychologist’s factual error in
calculating Petitioner’s score in the 2017 CRA].)

1 psychologist concluded the opposite. (See *In re Twinn, supra*, 190 Cal.App.4th at p. 472
2 [granting petition where, among other things, the Governor had “taken entirely out of context” a
3 statement by the psychologist, which had not been “offered as a reason for [the petitioner] to
4 remain incarcerated or to show that [he] posed a current danger”].)

5 Indeed, the CRA splits the assessment of Petitioner’s risk for violence into two
6 categories: “Historic Factors” and “Clinical Factors.” (Ex. E at pp. 14-17.) The discussion of
7 Petitioner’s antisocial personality disorder diagnosis falls within the “Historic” section, and the
8 report acknowledges that “the current relevance of all of these [historic] factors is low.” (*Id.* at
9 p. 14.) By contrast, the “Clinical Factors” section, which “reflects current behavior and
10 functioning,” begins with the unambiguous conclusion: Mr. Enriquez currently displays no
11 predictive factors for recidivism. (*Id.* at p. 15.)

12 And the psychologist makes it abundantly clear throughout the CRA that Petitioner
13 neither exhibits severe symptoms of ASPD, nor does his diagnosis suggest that he represents a
14 risk of violence. (See, e.g., *id.* at p. 10 [“No evidence of psychotic symptoms, mood issues, or
15 other signs of major mental illness have been noted in available records. Similarly, during the
16 current evaluation, no overt signs or symptoms of a severe mental disorder were observed.”]; *id.*
17 at p. 11 [noting that the only time Petitioner has recently exhibited significant mental health
18 symptoms is before his parole hearings, when he gets “anxious at a level of three out of 10”]; *id.*
19 at p. 20 [“[H]e has shown an increasing appreciation of the causative factors of his *past*
20 antisocial and violent behavior.” (italics added.)].) One will search the CRA in vain for any
21 indication that there is a link between Petitioner’s psychological diagnosis and a heightened risk
22 of violence. Indeed, after considering Petitioner’s diagnosis, the psychologist concluded that his
23 risk of violence was “Low.” (*Id.* at p. 20.)

1 Put simply, plucking the psychologist’s remark that Petitioner’s ASPD diagnosis is
2 currently appropriate out of context and relying on it to conclude that Petitioner is dangerous and
3 should remain in prison was improper and stigmatizes people with mental illness. Petitioner has
4 worked tirelessly to separate himself from gang culture, to support the efforts of law
5 enforcement, to resolve his historical risk factors, and to address the root causes of his
6 psychological diagnosis, including through development of relapse prevention plans. The
7 Governor disputes none of this, while selectively quoting one line from the CRA and distorting it
8 to reach an opposite conclusion as to dangerousness. That cannot be enough to overturn the
9 Board’s fifth consecutive grant of parole. (See *In re Loesch, supra*, 183 Cal.App.4th at p. 160
10 [granting petition where, among other things, Governor had focused on a single statement in the
11 CRA and had ignored the psychologist’s determination that “[t]here was no evidence in the
12 current interview that [petitioner] is an imminent threat for future violence”].) The Governor may
13 believe that Petitioner will attempt to rejoin the Mexican Mafia or revert to violent behavior if
14 released, but no evidence—from Petitioner’s testimony, from the Board psychologist’s
15 assessment, or from anywhere else—supports this belief. (*In re Smith, supra*, 114 Cal.App.4th at
16 p. 369 [vacating reversal of parole where Governor relied on “unsubstantiated speculation” and
17 “the record provide[d] no reasonable grounds to reject, or even challenge, the findings and
18 conclusions of the psychologist,” who determined that petitioner posed a low risk of violence].)
19 All evidence, including statements from the people who know Petitioner best, including the
20 people he lives alongside and mentors, the people who supervise him, and the law enforcement
21 officers he works with, is to the contrary. (See Statement of Facts ¶¶ 13-19.)

1 **REQUEST FOR IMMEDIATE RELEASE**

2 Because there is no evidence to support a decision other than the one reached by the
3 Board, “a remand to the Governor in this case would amount to an idle act.” (*In re Smith* (2003)
4 109 Cal.App.4th 489, 507.) Accordingly, after vacating the Governor’s reversal, the Court
5 should reinstate the Board’s parole grant, ordering it to be enforced forthwith.

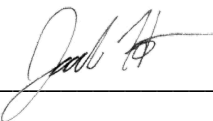
6 **CONCLUSION**

7 Counsel for Petitioner, having diligently reviewed published California case law, is aware
8 of no case involving a habeas petitioner whose parole application includes the range of praise
9 and gratitude from law enforcement that Petitioner has earned over the last two decades. Counsel
10 is also aware that the Board of Parole Hearings “grants parole in a very small percentage of cases
11 for a good reason or reasons.” (*In re Loresch, supra*, 183 Cal.App.4th at p. 164.) Yet, for the fifth
12 consecutive time, in 2020, the Board found Petitioner Rene Enriquez suitable for parole, finding
13 no evidence that, at present, he posed an unreasonable risk to public safety. The Governor’s
14 contrary decision represents not a different weighing of the evidence, but a baseless effort to
15 prevent Petitioner’s release for the fifth time. Judicial intervention is necessary to secure
16 Petitioner’s right to due process.

17 For the foregoing reasons, Petitioner respectfully requests that this Court grant his
18 petition for writ of habeas corpus and order his release.

19 Dated: April 22, 2021

20
21 Respectfully submitted,

22 By:  _____
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LIST OF EXHIBITS

- Exhibit A: Excerpts of Petitioner’s 2020 Board of Parole Hearings Master Packet
- Exhibit B: Excerpts of 2018 Parole Suitability Hearing Transcript
- Exhibit C: 2020 Parole Suitability Hearing Transcript
- Exhibit D: Excerpts of 2016 Parole Suitability Hearing Transcript
- Exhibit E: 2020 Comprehensive Risk Assessment
- Exhibit F: 2016 Indeterminate Sentence Parole Release Review
- Exhibit G: Excerpts of 2020 Board of Parole Hearings 10-Day Hearing Packet
- Exhibit H: 2020 Indeterminate Sentence Parole Release Review
- Exhibit I: Corrections / Rebuttal to 2020 CRA