

Appellate Courts Case Information

Supreme Court

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Docket (Register of Actions)

NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS v. NEWSOM (BECERRA)

Division SF

Case Number S261827

Date	Description	Notes
04/24/2020	Petition for writ of mandate/prohibition filed	Petitioner: National Association of Criminal Defense Lawyers Attorney: Sara A. McDermott Petitioner: California Attorneys for Criminal Justice Attorney: Sara A. McDermott Petitioner: Youth Justice Coalition Attorney: Sara A. McDermott
04/24/2020	Exhibit(s) lodged	Exhibit volumes 1-4 in support of petition for writ of mandate
04/24/2020	Retained for consideration (mandate/prohibition)	
04/24/2020	Preliminary opposition to writ petition requested	Dear Counsel: The court has directed that I request an informal response to the petition filed in the above-referenced matter. The petition was served on your office on April 24, 2020. The informal response is to be served upon petitioner and filed in this court on or before 5:00 p.m. on Tuesday, April 28, 2020. Petitioners may then serve and file a reply to the informal response on or before 12:00 p.m. on Thursday, April 30, 2020. No requests for extension of time are contemplated or will be granted.
04/24/2020	Motion for judicial notice filed	Petitioner: National Association of Criminal Defense Lawyers Attorney: Sara A. McDermott Petitioner: California Attorneys for Criminal Justice Attorney: Sara A. McDermott Petitioner: Youth Justice Coalition Attorney: Sara A. McDermott
04/24/2020	Motion to file document under seal filed	by Sylvia Torres-Guillen, counsel for petitioners.
04/24/2020	Received:	Declarations
04/24/2020	Received:	Declarations (CONDITIONALLY UNDER SEAL)

04/27/2020	Received:	Notice of Errata to verification by petitioners.
04/28/2020	Preliminary opposition to writ petition filed	Respondent: Gavin Newsom Attorney: Jose A. Zelidon-Zepeda Respondent: Xavier Becerra Attorney: Jose A. Zelidon-Zepeda
04/30/2020	Reply to preliminary opposition filed	Petitioner: National Association of Criminal Defense Lawyers Attorney: Sara A. McDermott Petitioner: California Attorneys for Criminal Justice Attorney: Sara A. McDermott Petitioner: Youth Justice Coalition Attorney: Sara A. McDermott
04/30/2020	Received:	Amicus Curiae letter in support of petition for writ of mandate, by Oscar Bobrow, attorney on behalf of the California Public Defenders Association.
04/30/2020	Received:	Amicus Curiae letter in support of respondents, by Jennifer B. Henning, attorney for California State Association of Counties.
05/01/2020	Received:	Amici Curiae letter in support of petition for writ of mandate, by Ian Matthew Kysel, attorney for Amici public health experts (see list at Appendix A).
05/04/2020	Petition for writ of mandate/prohibition denied	This mandate proceeding raises urgent questions concerning the responsibility of state authorities to ensure the health and safety of individuals confined in county jails and juvenile facilities in light of the ongoing COVID-19 pandemic. The Governor of California declared a state of emergency on March 4, 2020 (Gov. Code, §§ 8558, 8625), and numerous orders to slow the spread of the virus have issued from all levels of government. According to the state Department of Public Health, there were 53, 616 confirmed cases and 2, 138 deaths in California associated with COVID-19 as of May 2, 2020. County-level data indicate several hundred confirmed cases of COVID-19 infection among inmates and staff in jails and juvenile detention facilities. On March 27, 2020, the U.S. Centers for Disease Control and Prevention (CDC) issued guidance observing that conditions in correctional and detention facilities present "unique challenges for control of COVID-19 transmission among incarcerated/detained persons, staff, and visitors." (U.S. Centers for Disease Control and Prevention, Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities (Mar. 27, 2020) p. 2 (CDC Guidance).) Petitioners contend that numerous jails and juvenile detention facilities throughout the state are not in compliance with CDC guidelines for preventing and limiting the spread of infection, thereby endangering the health and safety of inmates, staff, and the public at large. Petitioners allege, with supporting declarations, that various facilities do not practice appropriate social distancing, do not maintain sanitary conditions in cells and common areas, do not provide adequate medical care to inmates with possible symptoms of infection, and do not provide inmates with masks or supplies for basic hygiene, such as soap or hand sanitizer. Petitioners contend that these conditions amount to a violation of inmates' constitutional rights that respondents, the Governor and the Attorney General, have a legal duty to remedy. Respondents contend that the duty to remedy any violations rests with local officials in charge of the facilities and that the factual issues presented are best resolved by trial courts in the first instance. The CDC guidance cited by petitioners underscores that it "may need to be adapted based on individual facilities' physical space, staffing, population, operations, and other resources and conditions." (CDC Guidance, <i>supra</i>, at p. 1, boldface omitted.) In a jurisdiction as large and diverse as California, it is evident that current conditions in detention facilities with regard to the COVID-19 pandemic are not uniform throughout the state. Petitioners have provided declarations from witnesses describing specific conditions in facilities in the following 15 counties: Alameda, Contra Costa, Fresno, Los Angeles, Monterey, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, Santa Barbara, Santa

		Clara, Tulare, and Yuba. They have not provided specific information concerning conditions in other counties. The issues raised in the petition call for prompt attention in a manner that considers the diversity of local conditions throughout the state. In order to promote expeditious and tailored resolution of petitioners' claims, and cognizant of the important questions raised concerning the balance of local and state responsibility for addressing conditions in jails and juvenile facilities, the court hereby orders the following: The petition for writ of mandate is denied without prejudice to the institution of actions raising similar claims against these respondents or other officials or entities in the superior courts of appropriate counties. For any such filing, the superior court should be mindful of a range of procedural tools to achieve prompt and effective resolution of the matter. Those tools include the authority to: - join all parties necessary for full inquiry into the issues raised and for development and implementation of any appropriate relief (Code Civ. Proc., § 389, subd. (a)); - consolidate the action with any similar actions pending in the court, in the interest of efficiency and in light of public health concerns (Code Civ. Proc., § 1048, subd. (a)); - transfer and consolidate matters across counties upon a motion by any party when such transfer and consolidation would promote efficient utilization of judicial resources and otherwise satisfy applicable standards (Code Civ. Proc., §§ 403, 404.1); - assign a single bench officer or appoint one or more referees or special masters to bring swift and focused attention to the issues raised (Cal. Rules of Court, rule 3.734; Code Civ. Proc., §§ 638, 639); - facilitate discussion among all parties to achieve a negotiated resolution that is responsive to local conditions and avoids protracted litigation; - order interim relief, as appropriate, during the pendency of the action; and - give the matter expedited consideration for evidentiary hearings, briefing, and any joint discussions for resolution. In all such matters, the superior court is to proceed as expeditiously as possible and to be mindful that conditions associated with COVID-19 in detention facilities and local communities are continually evolving. Given the dynamic nature of the pandemic, the denial of the petition is without prejudice to the filing of a new petition in this court raising similar claims if circumstances warrant. Petitioners' application to file portions of the record under seal is granted as to the declarations described in their application. (Cal. Rules of Court, rules 2.550(d), 8.46(b).) In ordering the sealing, this court makes the findings required by California Rules of Court, rules 2.550(d) and 8.46(d)(6). The clerk of this court is directed to file under seal the declarations described in petitioners' application. The request for judicial notice is granted except as to "Government Records" items 1-8, 14-24, and 29-32. (Req. for Jud. Not., at pp. 5-6.)
05/04/2020	Filed:	Declarations of Jessica A., Susan A., and Genevieve H. (SEALED BY ORDER OF THE COURT ON MAY 4, 2020.)

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