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20 SUPERIOR COURT OF STATE OF CALIFORNIA
21 FOR THE COUNTY OF LOS ANGELES

22 PEOPLE OF THE STATE OF
23 CALIFORNIA,

24 Plaintiff,

25 v.

26 ERIK GALEN MENENDEZ,
27 JOSEPH LYLE MENENDEZ,

28 Defendants

Case No. BA068880

PEOPLE'S MOTION
REQUESTING 1172.1 RECALL
OF SENTENCE &
RESENTENCING HEARING;
MEMORANDUM OF POINTS
AND AUTHORITIES
THEREOF; PROOF OF
SERVICE

DEPT.: 56W
COURT: Clara Shortridge Foltz
Criminal Justice Center
DATE:
TIME: 8:30 a.m.

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

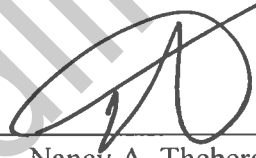
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David W. Slayton, Executive Officer/Clerk of Court

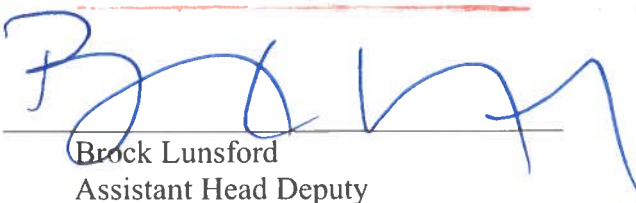
1 **TO THE HONORABLE JUDGE WILLIAM RYAN OF THE LOS ANGELES**
2 **COUNTY SUPERIOR COURT, DEFENDANTS ERIK AND LYLE MENENDEZ, AND**
3 **ALL INTERESTED PARTIES:**

4 **PLEASE TAKE NOTICE** that as soon as can be heard, the People will move the court
5 to recall the sentence of Erik Menendez and Joseph Lyle Menendez and resentence them in the
6 interests of justice. This motion is made upon the grounds that the circumstances of the case
7 warrant the court exercise its discretion and re-examine the disposition in the case. This motion is
8 based on the pleadings in this action, the attached memorandum of points and authorities, the
9 attached exhibits, and on such oral and documentary evidence as may be presented at the hearing
10 on the motion.
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14 Dated: 10/24/2024



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REQUEST FOR RECALL AND RESENTENCING

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The People respectfully request this court recall Defendants' sentence and resentence them pursuant to Penal Code section 1172.1. Defendants have demonstrated exceptional post-conviction conduct, a critical factor, in assessing their suitability for release. Defendants have demonstrated they no longer present a public safety risk pursuant to Penal Code Section 667.5 such that their current sentence is no longer in furtherance of justice. The People, therefore, request the Court vacate, recall and resentence Defendants.

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PROCEDURAL SUMMARY OF THE CASE

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On March 12, 1990, a felony complaint was filed in the Beverly Hills Municipal Court charging Erik and Lyle Menendez ("the defendants") with the August 20, 1989 murder of their parents Jose and Mary "Kitty" Menendez. It was also alleged that in the commission of the murders, the defendants each personally used a firearm within the meaning of Penal Code section 12022.5. Three special circumstances were also alleged against them: that the murders were committed by the defendants for financial gain within the meaning of Penal Code section 190.2(a)(1); that the murders were committed by the defendants while lying in wait within the meaning of Penal Code section 190.2(a)(15), and; that the defendants committed multiple murders within the meaning of Penal Code section 190.2(a)(3). (See attached People's Exhibit One).

The defendants' preliminary hearing was delayed due to litigation regarding the admissibility of tape recordings involving the defendants discussing the killing of their parents with their psychotherapist. The District Attorney's Office then proceeded to the Grand Jury of Los Angeles County and sought indictments against the defendants for the killing of their

1 parents.¹ (See attached People's Exhibit Two). On December 7, 1992, the Grand Jury issued an
2 indictment, charging the defendants with the murder of each of their parents and alleging the
3 lying-in-wait and multiple murder special circumstances. (See attached People's Exhibit Three).
4 The defendants were also originally indicted for the conspiracy to murder both Jose and Kitty
5 Menendez in separate counts, but the government returned to the Grand Jury on April 14, 1993
6 and sought an amended indictment wherein the defendants were charged in one count only with
7 the conspiracy to murder both of their parents. (See attached People's Exhibit Four).
8

9 On January 12, 1993, the government announced they were seeking the death penalty
10 against both defendants.
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12 The defendants were tried jointly commencing in June 1993, before separate juries.
13 Neither jury was able to reach a verdict and the trial court declared a mistrial as to each
14 defendant.
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16 The defendants were retried starting in October 1995 before a single jury. On March 20,
17 1996, the jury found the defendants guilty as charged. The penalty phase resulted in verdicts of
18 Life Without Parole rather than death for the defendants in April 1996. On July 2, 1996, the trial
19 court imposed consecutive terms of Life Without Parole life on the two murder convictions and
20 stayed the conspiracy to murder sentence pursuant to Penal Code section 654.
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23 **BRIEF STATEMENT OF FACTS**

24 On August 20, 1989, at approximately 10:30 p.m., defendants Erik and Lyle
25 Menendez shot and killed their parents, Kitty and Jose Menendez, as they sat on the family's
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27 ¹ The People sought charges of murder against the defendants for the killing of their parents along with the same
28 financial gain, lying in wait and multiple murder special circumstances that were alleged in the felony complaint. In
the indictment, however, the Grand Jury did not allege the financial gain special circumstance. Despite this, the
People presented evidence at trial of the defendants' financial interest in their parents' demise and subsequent
excessive spending of money as a possible motive for the killings.

1 couch watching television and eating. Both defendants repeatedly fired Mossberg shotguns at
2 their parents, striking them multiple times with shotgun pellets all over their bodies. One of the
3 Menendez's neighbors heard a series of popping sounds at about 10:30 p.m., and then a period of
4 silence and then another series of popping sounds. This neighbor's son was going to call 911 but
5 was dissuaded from doing so by his father because he thought the popping sounds were simply
6 firecrackers.
7

8 At the time of the killings, Lyle Menendez was 21 years old and a student at Princeton
9 University while Erik Menendez was 18 years old and preparing to attend UCLA in the fall.

10 On the afternoon of August 20, Lyle Menendez had called a friend and discussed getting
11 together that evening at a food festival in Santa Monica. Lyle Menendez told the friend that he
12 and Erik Menendez were going to see a movie in Century City but after the movie finished
13 around 9:30 p.m., they would go meet up with the friend in Santa Monica. When the defendants
14 did not show up in Santa Monica, the friend left. Lyle Menendez called the friend twice at
15 approximately 11 p.m. In the first call, Lyle Menendez said he got lost on the way to Santa
16 Monica and that by the time he finally found the location, the food festival was closed. Lyle
17 Menendez suggested the friend meet him and Erik Menendez at a restaurant in Beverly Hills.
18 The friend was reluctant but because Erik Menendez was very insistent and sounded "anxious"
19 and "excited," the friend ultimately agreed. Lyle Menendez called the friend again just a few
20 minutes later and asked him to meet the defendants at the Menendez home instead of the
21 restaurant. The friend told Lyle Menendez he would wait at the restaurant for the defendants
22 instead, but the defendants never appeared. The friend was angered by this behavior and went to
23 the Menendez home to yell at the defendants but then saw a large number of police cars outside
24 and was told by the police there was some "trouble", so the friend went home.
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1 At 11:47 p.m. on the night of the killings, Lyle Menendez called 911 and said, "Someone
2 killed my parents." Lyle Menendez said he had not heard anything unusual, he had just come
3 home and discovered that his parents had been shot to death. Police officers responded to Lyle
4 Menendez's 911 call. When they reached the front of the Menendez residence, Erik and Lyle
5 Menendez ran out of the front door of the house. The young men were screaming. The
6 investigating detective did not recover any ammunition inside of the residence nor were any
7 shotguns located. The defendants spoke to the police the night of the murders as well as again in
8 September 1989. In both interviews the defendants said they were elsewhere at the time of the
9 murders. At the time of the first interview, Lyle Menendez indicated the possibility that the
10 killings were "business related." Within a few days of the killings, Lyle Menendez hired a
11 security services company to provide constant protection for him while he was on the East Coast.
12 Lyle Menendez told the security company that his parents' killings were committed by an
13 organized crime group, a story he repeated to other people over the next few months.

14 Erik Menendez testified at trial that he had been physically and sexually abused by his
15 father Jose Menendez between the ages of six and eighteen. Erik Menendez testified he loved
16 his parents but killed them because they were going to kill him after he had disclosed to his
17 brother Lyle Menendez that his father had been sexually abusing him. Erik Menendez told Lyle
18 Menendez about the molestation five days before the killings and told him it had been ongoing
19 for the past twelve years. On August 17, Lyle Menendez confronted Jose Menendez about the
20 molestation of Erik Menendez and threatened to tell the police or relatives if Jose Menendez did
21 not stop. Erik Menendez testified that he believed both he and Lyle Menendez would die as a
22 result of Lyle Menendez's threat to expose Jose Menendez's molestation of Erik. The next day,
23 Erik Menendez and Lyle Menendez purchased the Mossberg shotguns they used in the murders
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1 with cash at a sporting goods store in San Diego. At the time of purchase, Erik Menendez
2 presented a California driver's license in someone else's name and gave a nonexistent home
3 address in San Diego. Erik Menendez later testified at trial that he and Lyle Menendez picked
4 up the ejected shotgun shells at the murder scene because they believed their fingerprints might
5 be on them. The defendants left the house and stopped at a car wash where they dumped the
6 shotgun shells and bloody clothes in the trash. Erik Menendez testified he also feared his mother
7 Kitty Menendez because she participated in her husband's abusive behavior by condoning it.
8

9 In his testimony, Erik Menendez made clear that in the days preceding the murders, he
10 thought his parents were going to kill him. There was a planned fishing trip on August 19 that
11 the defendants tried to avoid because Erik Menendez was afraid the fishing trip was a ploy to kill
12 the defendants out at sea. Ultimately the defendants returned home and then their parents took
13 them out on the fishing trip. During the entire time, an independent witness corroborated that the
14 defendants stayed at the front of the 31-foot boat. Erik Menendez testified this was because they
15 were afraid of their parents.
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17 Evidence was presented at trial of the defendants' efforts to convince two of their friends
18 to testify falsely. One friend was asked by Lyle Menendez to testify that the day before the
19 murders, the defendants came to him and said they needed a handgun for protection from their
20 parents. The other friend was asked by Lyle Menendez to testify that Jose Menendez had done
21 to her what had been done to a character in a movie the friend had seen with Lyle Menendez.
22 Lyle Menendez told the friend she would receive a large sum of money if she testified
23 accordingly. Both friends refused. At trial, the People also introduced nine pages seized from
24 Lyle Menendez's jail cell before the first trial. The nine pages contained references to "safe
25 houses" in foreign cities as well as international travel and visas for different countries.
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MEMORANDUM OF POINTS AND AUTHORITIES

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I. LEGISLATIVE HISTORY, DISTRICT ATTORNEY’S AUTHORITY TO RECOMMEND RECALL AND JUDICIAL DISCRETION GRANTED UNDER PENAL CODE SECTION 1172.1

Penal Code² section 1172.1 (formerly section 1170.03, originally section 1170, subdivision (d)(1)), authorizes a court to recall the sentence of a defendant committed to state prison and resentence that defendant to a lesser sentence upon the recommendation of, among other agencies, the District Attorney of the county in which the defendant was sentenced, where the court determines the defendant’s continued incarceration is no longer in the interest of justice.³ (§ 1172.1, subs. (a)(1), (a)(3).) Section 1172.1 provides that, in deciding whether to recall a prison sentence, the trial court may consider postconviction factors, such as a defendant’s “record of rehabilitation.” (§ 1172.1, subd. (a)(4).) Section 1172.1 creates a presumption in favor of recall and resentencing in such cases. (§ 1172.1, subd. (b)(2).)

Briefed below is an overview of the statute’s legislative history, the authority granted to the District Attorney, and the discretion granted to the Court.⁴

A. Purpose and Legislative History of Penal Code Section 1172.1

Section 1172.1 was originally enacted as section 1170(d) (later 1170(d)(1)), to provide prison officials authority to recommend a recall of sentence upon an evaluation of the defendant’s criminal record, life history, and potential threat to public safety. (*Dix v. Superior Court* (1991))

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² All further statutory references are to the Penal Code unless otherwise indicated.

³ The full list of entities which may recommend recall and resentencing of a defendant are the Secretary of CDCR the Board of Parole Hearings (for those defendants incarcerated in state prison), the administrator of a local county jail (for those defendants incarcerated in a local jail), the prosecuting District Attorney, and the Attorney General in cases prosecuted by the Department of Justice.

⁴ The statute’s legislative history provide in this brief was prepared by For The People in an unrelated case.

1 53 Cal.3d 442, 457, n.11.) In 2015 the legislature extended this authority to county jail
2 administrators in the case of defendants sentenced to county jail under realignment. (Stats. 2015,
3 ch. 378, §§ 1-2.) More recently the legislature extended the authority to recommend a recall of
4 sentence to prosecuting agencies. (Stats. 2018, ch. 1001 (extending to the district attorney of the
5 county where defendant was sentenced); Stats. 2021, ch. 719, §§ 3-3.1 (extending to the Attorney
6 General in cases where the Department of Justice prosecuted the case).)

7
8 Prison officials interpreted the original Penal Code section 1170(d) as authorizing the recall
9 of sentences based on circumstances that “arose after the original commitment,” an interpretation
10 approved by the California Supreme Court. (*Dix v. Superior Court, supra*, 53 Cal.3d 442, 460-
11 463.) Through the plain language of the statute and legislative history, the legislature has
12 established its intent that recall, and resentencing is permitted to account for the defendant’s
13 rehabilitation, criminal justice reforms, and growing societal awareness of factors that contribute
14 to criminal offenses.

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16 In 2018, the Legislature amended the statute to expressly direct courts to consider
17 “postconviction factors, including, but not limited to, the disciplinary record and record of
18 rehabilitation of the defendant while incarcerated, evidence that reflects whether age, time served,
19 and diminished physical condition, if any, have reduced the defendant’s risk for future violence,
20 and evidence that reflects that circumstances have changed since the original sentencing so that
21 the inmate’s continued incarceration is no longer in the interest of justice.” (Stats. 2018, ch. 36,
22 §§ 17-18.)

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24
25 In 2021, the Legislature moved the resentencing provisions of section 1170(d)(1) to a new
26 section 1170.03 for legislative clarity and extended relevant postconviction circumstances to
27 explicitly include considerations of criminal justice reform. In Assembly Bill 1540, the Legislature
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1 instructed courts to “apply any changes in law that reduce sentences or provide for judicial
2 discretion,” and stated its intent that trial courts “apply ameliorative laws passed by this body that
3 reduce sentences or provide for judicial discretion, regardless of the date of the offense or
4 conviction.” (Stats. 2021, ch. 719, § 1(i), 3-3.1.) Separately, in Assembly Bill 124, the Legislature
5 directed courts to consider circumstances contributing to the underlying offense, including if the
6 defendant had “experienced psychological, physical, or childhood trauma, including, but not
7 limited to, abuse, neglect, exploitation, or sexual violence, if the defendant was a victim of intimate
8 partner violence or human trafficking prior to or at the time of the commission of the offense, or
9 if the defendant is a youth or was a youth . . . at the time of the commission of the offense.” (Stats.
10 2021, ch. 695, §§ 5-6.)

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13 **B. District Attorney’s Authority to Recommend Recall and Resentencing Through**
14 **Passage of Assembly Bill 2942**

15 The role of district attorneys in the administration of justice is axiomatic, and the passage
16 of AB 2942 expanded that role in service of the legislative aims provided in AB 1812 of 2018,
17 regarding reduction of prison populations in California. (Assem. Com. on Budget, Rep. on Assem.
18 Bill No. 1812 (2017-2018 Reg. Sess.) as amended Jun. 12, 2018.) In essence, AB 2942 added
19 district attorneys to the small list of persons vested with authority to recommend recall and
20 resentencing to the court. (§ 1172.1, subd. (a)(1); see also Sen. Rules Com., Off. of Sen. Floor
21 Analyses, 3d reading analysis of Assem. Bill 2942 (2017-2018 Reg. Sess.) as amended Aug. 17,
22 2018, p. 3.)

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24
25 AB 2942 addresses situations in which district attorneys become aware of defendants for
26 whom recall and resentencing to a lesser term may be appropriate in the interest of justice. (Sen.
27 Com. on Pub. S., Analysis of Assem. Bill No. 2942 (2017-2018 Reg. Sess.) Jun. 26, 2018.) While
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1 it does not vest any specific power within a district attorney to commence resentencing
2 proceedings, AB 2942 provides district attorneys with a procedure to reevaluate and where
3 appropriate, make a recommendation to the court for recall and resentencing, thereby triggering
4 the power of the court and the defendants' resulting procedural rights. (§ 1172.1.)

5
6 The extension of the recommendation authority reflects a legislative intent to rely upon the
7 knowledge and insight prosecutors have of postconviction factors that might justify recall and
8 resentencing of an inmate. This intent was made explicit in 2021 in AB 1540, which created a
9 presumption in favor of resentencing upon recommendation by prison officials, county jail
10 administrators, or prosecutors. (Stats. 2021, ch. 719.) "These law enforcement agencies devote
11 significant time, analysis, and scrutiny to each referral that they make It is the intent of the
12 Legislature for judges to recognize the scrutiny that has already been brought to these referrals by
13 the referring entity." (Stats. 2021, ch. 719, § 1(g)-(h).)

14
15 Accordingly, the District Attorney requests that this Court recall Erik and Lyle Menendezs'
16 sentences for resentencing, so that these post-conviction factors can be given appropriate weight
17 in crafting a just sentence.
18

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20 **C. Court's Jurisdiction and Judicial Discretion to Recall Sentence and Resentence
21 Defendant Is Triggered by the People's Recommendation Pursuant to Penal Code
22 Section 1172.1**

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23 The trial court may recall a sentence under section 1172.1 "for any reason rationally
24 related to lawful sentencing." (*Dix v. Superior Court, supra*, 53 Cal.3d 442, 456.) After 120
25 days from the date of sentencing has passed, the trial court regains the authority to recall a
26 sentence and resentence the defendant if it receives a recommendation from an empowered actor,
27 including the district attorney of the county in which the defendant was sentenced. (§ 1172.1,
28 subd. (a)(1).) Section 1172.1 also creates a rebuttable "presumption favoring recall and

1 resentencing of the defendant, which may only be overcome if a court finds the defendant is an
2 unreasonable risk of danger to public safety, as defined in subdivision (c) of Section 1170.18.”
3 (§ 1172.1, subd. (b)(2).) Section 1170.18(c) defines “unreasonable risk of danger to public
4 safety” to mean that there is an unreasonable risk that the petitioner will commit a new violent
5 felony (a “super strike”) within the meaning of §667(e)(2)(C)(iv). Among the crimes listed
6 under §667(e)(2)(C)(iv), is any crime that carries a life sentence.⁵ “Determining whether
7 resentencing a defendant poses an unreasonable risk of danger to society is necessarily a
8 forward-looking inquiry.” (*People v. Williams*, 19 Cal. App. 5th 1057)⁶

10 Upon recall, the trial court has broad discretion to resentence the defendant “as if they had
11 not previously been sentenced.” (§ 1172.1, subd. (a)(1).) The sentencing court may, in the interest
12 of justice, “reduce a defendant’s term of imprisonment by modifying the sentence,” or “vacate the
13 defendant’s conviction and impose judgment on any necessarily included lesser offense or lesser
14 related offense, whether or not that offense was charged in the original pleading, and then
15 resentence the defendant to a reduced term of imprisonment, with the concurrence of both the
16 defendant and the district attorney” (§ 1172.1, subd. (a)(3).)

19 Under Penal Code section 1172.1, the court can recall and resentence cases involving

21 ⁵ Section 667(e)(2)(C)(iv) delineates a list of crimes commonly known as “Super Strikes.” The felonies listed in
22 section 667(e)(2)(C)(iv) are: **(I)** A “sexually violent offense” as defined in subdivision (b) of Section 6600 of the
23 Welfare and Institutions Code. **(II)** Oral copulation with a child who is under 14 years of age and more than 10 years
24 younger than the defendant as defined by Section 288a, sodomy with another person who is under 14 years of age
25 and more than 10 years younger than the defendant as defined by Section 286, or sexual penetration with another
26 person who is under 14 years of age and more than 10 years younger than the defendant, as defined by Section
27 289. **(III)** A lewd or lascivious act involving a child under 14 years of age, in violation of Section 288. **(IV)** Any
28 homicide offense, including any attempted homicide offense, defined in Sections 187 to 191.5,
inclusive. **(V)** Solicitation to commit murder as defined in Section 653f. **(VI)** Assault with a machinegun on a peace
officer or firefighter, as defined in paragraph (3) of subdivision (d) of Section 245. **(VII)** Possession of a weapon of
mass destruction, as defined in paragraph (1) of subdivision (a) of Section 11418. **(VIII)** Any serious or violent
felony offense punishable in California by life imprisonment or death.

⁶ The court in *People v. Williams*, 19 Cal. App. 5th 1057, addressed the issue of whether or not a trial court erred in
its denial of the defendant’s petition for resentencing under section 1170.126 finding the defendant would pose an
unreasonable risk to public safety. The public safety assessment required within section 1170.126, mirrors the
public safety test required in section 1172.1.

1 indeterminate sentences (when the sentence has a range, such as a 25-to-life sentence) and
2 determinate sentences (when the sentence is a set number of years, such as a 15-year sentence).
3 The entire sentence may be reconsidered, (*People v. Garner* (2016) 244 Cal.App.4th 1113, 1118),
4 and the court can use all of its judicial powers available at the time of the resentencing hearing,
5 including such familiar considerations as: (1) which term of imprisonment should be imposed; (2)
6 whether any enhancements charged should be stricken under Penal Code section 1385 (*Romero*);
7 and, (3) for multiple charges, whether a sentence should run consecutively or concurrently.
8

9 As compared with its original sentencing power, the court’s resentencing power is
10 restricted in only a few ways. “First, the resentence may not exceed the original sentence. Second,
11 the court must award credit for time served on the original sentence.” (*Dix v. Superior Court*,
12 *supra*, 53 Cal.3d 442, 456; see also *People v. Torres* (2008) 163 Cal.App.4th 1420, 1428-29;
13 §1172.1, subs. (a)(1) & (a)(5).) During resentencing, the court must rely on the ordinary
14 sentencing rules promulgated by the Judicial Council and apply changes in law that reduce
15 sentences or provide for judicial discretion, so as to avoid disparity of sentences. (§ 1172.1, subd.
16 (a)(2).) Lastly, the court broadly has the ability to apply ameliorative laws passed by the
17 Legislature that reduce sentences or provide for judicial discretion in sentencing. (Stats. 2021, ch.
18 719, §1(i); *People v. Pillsbury* (2021) 69 Cal.App.5th 776, 785-86.)
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21 The Legislature has also provided explicit guidelines to the resentencing court when
22 exercising its discretion to recall and resentence. Section 1172.1 has been amended and as of
23 January 1, 2024. Penal Code Section 1172.1(a)(5) now states that the Court “shall” consider
24 “postconviction factors, including, but not limited to, the disciplinary record and record of
25 rehabilitation of the defendant while incarcerated, evidence that reflects whether age, time
26 served, and diminished physical condition, if any, have reduced the defendant’s risk for future
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1 violence, and evidence that reflects that circumstances have changed since the original
2 sentencing so that continued incarceration is no longer in the interest of justice.” (§
3 1172.1, subd. (a)(1)(A)(5).)

4 Further the court is *required* to consider, “if the defendant has experienced psychological,
5 physical, or childhood trauma, including, but not limited to, abuse, neglect, exploitation, or
6 sexual violence, if the defendant was a victim of intimate partner violence or human trafficking
7 prior to or at the time of the commission of the offense, or if the defendant is a youth or was a
8 youth as defined under subdivision (b) of Section 1016.7⁷ at the time of the commission of the
9 offense, and whether those circumstances were a contributing factor in the commission of the
10 offense.” (§1172.1, subd. (a)(5).)

11 Lastly, the resentencing court must follow the direction of section 1170, subdivision (a)(1),
12 which declares the purpose of sentencing as “punishment, rehabilitation, and restorative justice.”
13 (§ 1170, subd. (a)(1). Under section 1172.1, there is a presumption in favor of resentencing
14 that may only be overcome if the court finds the defendant is an unreasonable risk of danger
15 to public safety which is defined as an unreasonable risk that the defendant will commit a
16 new violent felony. (§ 1172.1, subd. (b)(2).)

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28 ⁷ A youth under newly enacted section 1172.1 is defined as an individual under 26 years of age on the date of the
commission of the offense. (See § 1016.7 referenced in 1172.1.)

1 **II. THE DEFENDANTS' POST-CONVICTION FACTORS SHOW THAT**
2 **THEIR SENTENCES OF LIFE WITHOUT PAROLE ARE NO LONGER**
3 **IN THE INTEREST OF JUSTICE. THE COURT SHOULD**
4 **RESENTENCE ERIC AND LYLE MENENDEZ TO 50 YEARS TO LIFE**
5 **UNDER PENAL CODE SECTION 1172.1.**

6 Section 1172.1(a)(5) lays out factors that this Court must consider in recall-and-resentencing
7 procedures. Subsection (b)(2) sets forth a presumption favoring recall and resentencing, "which
8 may only be overcome if a court finds the defendant is an unreasonable risk of danger to public."
9 (§ 1172.1 subd. (b)(2).) Here, the (a)(4) factors—Menendez's current age 54 and 56, their age at
10 the time of the offense and their rehabilitative efforts in prison—all favor resentencing. The
11 (b)(2) presumption, moreover, stands because Erik and Lyle Menendez pose no risk of danger to
12 the public. Therefore, the People recommend this Court resentence to a sentence of 50 years to
13 life.

14 **A. The Statutory Factors Support Resentencing**

- 15 1. Now 54 and 56 years old, the Menendezs poses a low risk of committing a
16 new, violent felony while serving a 50 to life sentence.

17 Erik and Lyle Menendez's current age supports resentencing because it has "reduced
18 [his] risk for future violence." (§ 1172.1 subd. (a)(5).) Erik Menendez is 54 years old. Lyle
19 Menendez is currently 56. Studies show that criminality declines drastically after age 40, and
20 even more so after age 50. (See Weisberg et al., Stanford Criminal Justice Center, *Life in Limbo: An Examination of Parole Release for Prisoners Serving Life Sentences with the Possibility of Parole in California* (Sept. 2011) 1, 17.) Indeed, the California Court of Appeal has highlighted
21 the dramatic decrease in recidivism of people serving life sentences due to their age. (*In re Stoneroad* (2013) 215 Cal. App. 4th 596, 634.) Similar studies reflect the correlation between
22 age and reoffending for individuals in federal custody. (See United States Sentencing
23 Commission, *The Effects of Aging on Recidivism Among Federal Offenders* (Dec. 2017) at p. 3
24 (detailing how older offenders are substantially less likely than younger offenders to recidivate
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1 following release.) Given their age, their risk of committing a new, violent felony while serving
2 a sentence of 50 to life is extremely low. Their respective ages, therefore, weighs in favor of
3 resentencing here.

4 5 **2. Age at Time of Offense**

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7 This Court is required to take into account the age at the time of offense. Both Erik and Lyle
8 Menendez were youth under 26 years old at the time of the charged offense. (See Pen. Code §§
9 1172.1, subd. (a)(5) & 1016.7, subd. (b).) Indeed, Lyle Menendez was 21 years old and Erik
10 Menendez 18 at the time of the crimes charged. As a result of recent scientific developments and
11 changes in the law since the time of the sentence the mitigating force of youth as a sentencing
12 factor is now well and clearly established. The high court recognizes that youth

13
14 is more than a chronological fact. (*Eddings v. Oklahoma* (1982) 455 U.S. 104,
15 115.) It is a time of immaturity, irresponsibility, “impetuousness[,] and
16 recklessness.” (*Johnson v. Texas* (1993) 509 U.S. 350, 368.) It is a moment and
17 “condition of life when a person may be most susceptible to influence and to
18 psychological damage.” (*Eddings* at p. 115.) And its “signature qualities” are all
19 “transient.” (*Johnson* at p. 368.)

20 (*Miller v. Alabama* (2012) 567 U.S. 460, 476; see also *People v. Howard* (2021) 74 Cal.App.5th
21 141, 145 [“The criminal justice system has evolved [in the last decade with respect to its punishment
22 of youth offenders”].)

23 This widespread recognition of youth as significantly mitigating contrasts with the perception
24 at the time of the Menendez trial. At that time, courts took the outdated view that a defendant’s
25 youth was a “metonymic” factor – i.e., capable of being either mitigating or aggravating. (See,
26 e.g., *People v. Avena* (1996) 13 Cal.4th 394, 438.) As a result of a growing scientific
27 understanding in the decades since this sentence was imposed, courts now recognize that
28 incomplete brain development renders youth less capable of conforming conduct to that required
by law and that key features of the brain continue to undergo significant changes throughout a

1 person's 20s. (See, e.g., *People v. Sands* (2021) 70 Cal.App.5th 193, 198; *In re Williams* (2020)
2 57 Cal.App.5th 427, 434.) In other words, "[t]here is certainly no indication that . . . young
3 offenders' capacity for growth and rehabilitation . . . disappears simply because a young adult
4 has passed the age of 18"; instead, the frailties of youth that lessen culpability continue until at
5 least the mid-20s. (*Sands, supra*, at p. 203.)

6 Like the courts, the California Legislature has similarly recognized scientific developments
7 from recent decades which show the significantly mitigating role of youth and accompanying
8 immaturity to culpability. The Legislature has incorporated these principles through various
9 Penal Code reforms, including section 1016.7, subdivision (b), which is incorporated into section
10 1172.1's factors that weigh in favor of resentencing. (See Pen. Code, § 1172.1, subd. (a)(4); see
11 also Pen. Code, § 3051 [providing youth offender parole hearings for any qualified incarcerated
12 person convicted of controlling offense committed prior to age 26].)

13 Youth's transience, in combination with what is now known about adolescent and young
14 adult brain development, renders it undeniably mitigating; "as individuals mature, the
15 impetuousness and recklessness that may dominate in younger years can subside." (*In re Nunez*
16 (2009) 173 Cal.App.4th 709, 727, citing *In re Barker* (2007) 151 Cal.App.4th 346, 376-377,
17 quoting in turn *Johnson v. Texas* (1993) 509 U.S. 350, 368.) Erik and Lyle Menendez's' youth at
18 the time of the crime is a highly mitigating factor, the import of which was not fully understood
19 or considered at the time of his initial charging and sentencing, and it weighs in favor of
20 resentencing them to 50 years to life.

21 22 **3 Evidence of Sexual and Physical Abuse**

23
24 If taken as true, both the testimony of Erik and Lyle Menendez and the Probation reports
25 prepared on July 2, 1996, documents several allegations of physical and sexual abuse by family
26 members. Specifically, Lyle Menendez reported and testified that his father, Jose Menendez
27 molested him until he reached the age of 8 years-old. (See People's Exhibit 9: Los Angeles
28 County Probation Officer's Report, Sentencing Report, *People v Lyle Menendez*, Los Angeles

1 Superior court Case BA068880, July 2, 1996, page 11) The sexual abuse stopped but Lyle
2 reports that he “continued to see violence until 11 or 12.” (*Id* at 11.)

3 Erik Menendez reported that when he was 6-years-old, “his father, the victim in this case,
4 began to molest him, making Erik Menendez ‘massage’ and orally copulate him. When Erik
5 Menendez was 12-years-old, Jose Menendez began sodomizing him (See People’s Exhibit 9: Los
6 Angeles County Probation Officer’s report, Sentencing Report, People v Erik Menendez,
7 Superior court Case BA068880, July 2, 1996, page 13)

8
9 At some point Erik Menendez disclosed to his older brother then 13-year-old Lyle
10 Menendez, that Jose Menendez was raping Erik Menendez. Lyle Menendez in a separate
11 probation interview reported that at the age of 13, “ he confronted his father about the child
12 abuse of co-defendant Erik Menendez. He felt good about the confrontation and thought the
13 abuse had stopped.” (See Exhibit 9: Los Angeles County Probation Officer’s Report,
14 Sentencing Report, People v Lyle Menendez, Los Angeles Superior court Case BA068880, July
15 2, 1996, page 11)

16
17
18 Marta Menendez-Cano, the defendant’s paternal aunt in North Palm Beach, Florida
19 reported to the Los Angeles Probation Department when they interviewed her for Lyle
20 Menendez’s sentencing report that”

21 “ ... the defendants feared their father. When Erik was 12, he was beaten by his
22 father for suspicion of telling Lyle about the sexual abuse that was going on
23 between him and his father.” “The secrecy that is typical in sexual abuse cases
24 was evidenced by the anger Jose would show if anyone came to their house
25 unexpectedly. Erik was not allowed to call or receive calls from his cousin Andy
26 (her son.) (*Id* at 21)
27
28

1 Marta Menendez-Cano, also reported to the Los Angeles Probation Department that “one
2 time, Jose sat Erik and Andy down in the den to show them an ‘educational video’. The video
3 turned out to be hardcore pornography.” (*Id*)

4 As related to the defendants’ mother Kitty Menendez, Ms. Menendez-Cano reported “if Erik
5 got sick at school, he would beg his teachers not to call his parents. If he stayed home sick his
6 mother would put him the closet and make him stay there from 8:00 a.m. to 3:00p.m. He would
7 be punished greater if he came out of the closet without permission. Andy [was] the only person
8 who knew what was happening to Erik.” (*Id*)

9
10 Diane Vancer Molen, the defendants’ cousin stated to Probation at the time of the
11 Sentencing Report that “[h]er aunt ‘Kitty’ was her mentor in life. ‘I adored her.’ However,
12 Diane noticed a huge change in Kitty’s behavior. When Erik was around eleven years old, she
13 [Diane] saw him sobbing about something. When she went to comfort him, Kitty physically
14 stopped her and said, ‘We don’t hug Erik anymore.’” (*Id* at 22)

15
16 Erik Menendez went on to state that

17
18 After they moved to California in 1986, the child abuse stopped for a while,
19 However, a week before he turned 16 (November 1986), Father entered his room,
20 ordered defendant to get on his knees and orally copulate him. This continued to
21 occur every one to three months until August 10, 1989, ten days before the
22 present offense. Defendant was to start at U.C.L.A. in the fall semester and was
23 going to be living in a campus dorm. However, a week before the present offense,
24 father told defendant that he would be coming home several nights a week so
25 father could go over his homework.” (See People’s Exhibit 9: Los Angeles
26 Probation Department Sentencing Report, People v Erik Menendez, Los Angeles
27 Superior Court Case BA06880, 7/2/1996, page 13)

1 The Probation Department's Sentencing Report for Erik Menendez also noted that Erik
2 Menendez reported that "[m]other said she knew what was happening between defendant and
3 father." (*Id* at 8)

4 The childhood abuse and trauma incurred by both defendants in this case is sufficient to
5 invoke court consideration under sections 1170, subs. (b)(6) & (b)(6)(A).
6

7
8 **III. ERIC MENENDEZ'S PATH TOWARDS REHABILITATION SUPPORTS THE**
9 **IMPOSITION OF A NEW SENTENCE**

10 **A. Eric Menendez's Discipline Record**

11 The Court may consider a defendant's prison disciplinary record as one factor among
12 others in evaluating whether he should be resentenced. (§ 1172.1, subd. (a)(4).) Here, Erik
13 Menendez's overall disciplinary record while incarcerated is reflective of his positive trajectory
14 throughout his period of incarceration.

15 Erik Menendez has received eight (8) Rule Violations Reports ("RVRs") in over 30 years
16 of incarceration.

17 9/23/2021- Possession of a cell phone. (phone found in a pillowcase, in a cell Erik
18 Menendez shared with five other men.)

19 4/18/2018 – Erik Menendez was laying on Inmate Segura's bed, in inmate Segura's
20 cell (a cell that he does not share with Erik Menendez) while talking with a few
21 other inmates. There was a cell search while the men where in the cell, where upon
22 a cell phone found hidden in an Inmate Segura's mattress.

23 7/20/2011- Fighting (mutual combat, hands and fists). Erik Menendez reported that
24 the other inmate came over and assaulted him.

25 3/4/2006- Excessive physical contact with female visitor.

26 2/17/2005- Unauthorized possession of controlled medication. Erik Menendez
27 pretended to take his Wellbutrin. The guard asked to see the cup Erik Menendez
28 put to his mouth. The pill was still in the cup.

1/21/2003- Possession of tobacco/refusal to provide urine sample.

1 11/4/1997- Battery requiring the use of force. Erik Menendez assaulted another
2 inmate. The men did not stop fighting when ordered to. The guards had to use force
3 to stop the fight.

4 4/1/1997 – Disobeying an order. Erik Menendez refused to leave the Chapel after
5 the yard had been recalled.

6 (See People’s Exhibit 5)

7 **B. Erik Menendez’s Predictive Scores**

8
9 The People, having conducted a thorough review of the C-File, have verified current the
10 classification scores. Erik Menendez’s current California Static Risk Assessment (CSRA) rating is
11 a 1 (low) on a 1 to 5 scale.⁸ His current classification score (CS) is 19, with 19 being the lowest
12 score possible for someone serving a life sentence.⁹ Erik Menendez has had a raw security score
13 of 0 since 2014. Erik Menendez’s computed classification score before being readjusted to 19.
14 He is presently at a level II facility. (See People’s Exhibit 5)

15 **C. Erik Menendez Post-Conviction Factors**

16
17 An inmate’s suitability for release may be premised upon a showing of “overwhelming”
18 evidence of rehabilitation. (*In re Lawrence* (2008) 44 Cal.4th 1181, 1191.) Here, Erik
19 Menendez has programmed extensively during his more than 30-year period of incarceration.

20
21 ⁸ The California Static Risk Assessment (CSRA) is a validated risk assessment tool that utilizes a set of risk factors
22 which are most predictive of recidivism. The tool produces a risk number value that will predict the likelihood that
23 an offender will incur a felony arrest within a three-year period after release to parole. Risk factors utilized include,
24 but are not limited to, age, gender, criminal misdemeanor and felony convictions, and sentence/supervision
25 violations. (Cal. Code Regs. Tit. 15, § 3768.1.) California Static risk Assessment each offender is scored on three
26 sub-scales of the assessment: any felony recidivism, property or violent recidivism, and violent felony recidivism.
27 Scores on each sub-scale are calculated by multiplying the value of the static risk factor by weights for the factor
28 which were derived from regression analyses. Risk groups were developed based on cut points for each of the
scales, resulting in five different groups: High Violent Risk = 5, High Property Risk = 4, High Drug Risk = 3,
Moderate Risk = 2, Low Risk = 1. (<https://www.cdcr.ca.gov/law-enforcement-resources/prcs-refresher-training/>)

⁹ The CDCR uses an inmate classification system to ensure inmates are properly housed and supervised. An inmate's
classification score (CS) determines the security level of the penal institution or facility in which he or she will be
placed. Inmate classification scores are initially calculated when an inmate is committed to custody and adjusted
from time to time based upon the inmate's conduct in custody. (Cal. Code Regs. Tit. 15 § 3375 et seq.)

1 **1. Education**

2 Erik Menendez has been highly productive in the learning environment. Examples of Erik
3 Menendez’s successes include his acceptance to UC Irvine in May 2023 for the Fall 2023 term.
4 Prior to that he earned his Associates of Arts degree (AA) in Sociology with Honors from
5 Southwestern College. He was accepted into the Phi Theta Kappa Honor Society in August
6 2022. In May 2022, Erik Menendez earned his Certificate in Proficiency in American Sign
7 Language from Southwestern College. It is reported that Erik Menendez did this to better
8 communicate with participants in programs he created. In 2018, Erik Menendez earned his AA
9 degree in Social and Behavioral Science from Coastline Community College and obtained his
10 Health Care Aide Diploma with Highest Honors from the Stratford Career Institute in
11 September 2016. Erik Menendez attended Coastline Community College in Spring 2008 and
12 Spring 2009, (See attached People’s Exhibit 6)

13 **2. Self-Help and Recovery Programming**

14 Erik Menendez has proven himself to be an incredible asset to his prison community. He
15 has created four new programs within the RJ Donovan Prison to assist and better his fellow
16 inmates’ quality of life. Specific programs that Erik Menendez created include:

17 **(a) Life Care and Hospice Connections**

18 Erik Menendez along with a fellow inmate co-founded and facilitated the Life Care and
19 Hospice Connections program. Life Care and Hospice is an American with Disabilities Act
20 (ADA) awareness and support group that provides supports for the disabled and elderly inmates.
21 It also serves to educate non-ADA inmates on the physical and emotional struggles of the less
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1 abled peers. Chronos documenting the success of the program along with documenting Erik
2 Menendez's role as a leader and a facilitator are as follows:

- 3 • 9/13/2024 Laudatory Chrono from Crystal Lopez Community Resource Manager
4 RJDCF, to acknowledge Erik Menendez's "standout performance and excellence as
5 Chairman of the Executive and Head Facilitator of "Life Care and Hospice," a self-
6 help rehabilitative program in Facility E Yard that Mr. Menendez himself founded in
7 2016 in Facility B Yard and for which he authored the whole curriculum This
8 recognition covers the period of January 2023 to December 2023. This 2023 tenure
9 showcased Mr. Menendez going above and beyond the duties of his top leadership
10 position. In addition to consistently performing those tasks, he also utilized his time
11 outside of this class to thoroughly overhaul the program curriculum, group activities,
12 and discussion topics. Mr. Menendez spent almost this whole year reformulating the
13 original smaller class curriculum, which was originally written by him during this
14 program's founding in 2016. He eventually created an 126-page comprehensive
15 manual that serves as the new class source book and his fellow leaders and groups
16 members could not be happier and more excited about it. (ERMS 470)
- 17 • 9/13/2024 Laudatory Chrono from Crystal Lopez Community Resource Manager
18 RJDCF, to acknowledge Erik Menendez's "standout performance and excellence as
19 Chairman of the Executive and Head Facilitator of "Life Care and Hospice," a self-
20 help rehabilitative program in Facility E Yard that Mr. Menendez himself founded in
21 2016 in Facility B Yard and for which he authored the whole curriculum This
22 recognition covers that very challenging period of the Reopening phase right after the
23 COVID-19 pandemic from August of 2021 to December of 2022. The Life Care and
24 Hospice program provided a comfortable and compassionate setting in which ADA
25 and elderly inmates may freely discuss their feelings, frustrations, hardships, goals,
26 concerns and struggles, with the major objective of developing greater compassion
27 and acceptance between the ADA, the elderly and the Non-ADA inmates of the
28 prison population.

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- 8/23/2022 Chrono to acknowledge that Erik Menendez facilitated (6) session (9) hour workshop, Twelve Step Recovery with Meditation This was the second cycle of this workshop.
 - 4/18/2022 Memorandum to document that Life Care & Hospice Program was given permission to hold a voluntary book donation drive April 19-21, 2022, to replenish the depleted library in Administrative Segregation. The book drive was sponsored by HWOP.org.
 - 9/29/2020 Informational Chrono from Dr. R. Williams Ph.D., RJDCF. Dr. Williams wrote that “I was first able to observe Mr. Menendez, a GP inmate when he arrived on RJD Facility E in April 2018. He quickly became an inmate leader on this facility, leading peer to peer group meditations skills. I have since learned that Mr. Menendez began to contribute to the inmate community when he was on RJD Facility B. He discussed how through his work as an adult care give/ADA worker he became aware of the stereotypes that young and old inmates held about each other. He and other inmates formed a peer to peer group on that facility so that old and young inmates could come together and learn about each other and change the views they held. Over the time Mr. Menendez has been on Facility E, he found additional ways to contribute to the inmate community. As part of his pursuit of college education, Mr. Menendez took coursework in American Sign Language, so that he could better communicate with the deaf inmates he lived with. ...” (ERMS 507)
 - 10/23/2019 Chrono to recognize Erik Menendez for his outstanding contribution to the Facility E facility as the creator and facilitator of an American Disability Act (ADA) awareness and support group, Life Care and Hospice. (ERMS 511)
 - 2019 Life Care& Hospice Support Group and Education Program was sponsored by HWOP.org a 501(c)(3) organization. The group holds book drives which allows for books to go to inmates in Administrative Segregation.
 - 9/12/2018 Chrono to document that Erik Menendez started the Life Care Hospice (LCH) group April 2014. (ERMS 516) (may be duplicate)
 - 8/17/2018 Choro to acknowledge Erik Menendez as a facilitator or the ADA awareness and support group (iLTAG) titled: Life Care and Hospice Connections. (ERMS 518)

- 1 • 6/15/2017 Chrono to commend Erik Menendez for actively participating in the Life
2 Care & Hospice Connections. (ERMS 523)
- 3 • 1/15/2017 Chrono to acknowledge Erik Menendez as a facilitator of the ADA
4 awareness and support group titled: Life Care and Hospice Connections. (ERMS 526)
- 5 • 10/15/2016 Chrono for Erik Menendez's attendance in Life Care and Hospice.
6 (ERMS 532)
- 7 • 7/15/2016 Chrono to acknowledge Erik Menendez as a facilitator of the ADA
8 awareness and support group titled: Life Care and Hospice Connections. (ERMS 534)
- 9 • 4/4/2016 Chrono from M. Arellano, Staff Sponsor RJDCF acknowledging Erik
10 Menendez an inmate Salmon as being the co-founders and facilitators of the
11 American Disability Act ADA Awareness and Support Group titled Life Care and
12 Hospice Connections.
- 13 • 3/1/2016 Laudatory Chrono from Correctional Officer V. Freeman Inmate Assistant
14 Program Supervisor. C.O. Freeman wrote: " In July of 2015 When I became the
15 Supervisor of the 3rd watch Facility B Inmate Assistance Program (IAP), Inmate
16 Menendez had already been a Caregiver for two years. His work ethic, leadership
17 qualities among his peers, and commitment to helping the elderly and handicapped
18 inmates was widely known among staff, and immediately apparent. He worked longer
19 hours than his job required, and he would not leave his shift until all of the
20 handicapped inmates had been taken care of. Soon after I assumed the responsibility
21 for IAP Caregivers, Menendez pressed me to apply for more Caregivers. He wanted
22 greater individual care for every elderly and handicapped inmate in his charge and
23 asked for permission to train more Caregivers to help them. ... Menendez effectively
24 utilized his role as the leader of the Caregiver crew to oversee, train and help direct
25 new Caregivers. He did so in part by leading by his example, his work ethic, and a
26 high standard of care. " The Laudatory Chrono is a full page and half of descriptions
27 and examples of the high quality individual C.O. Freeman believes he is." (ERMS
28 546)
- 1/8/2016 Petition of support signed by 40 ADA, elderly or disabled inmates in the
form of a Chrono to document Erik Menendez's "exemplary service" as a Caregiver.
(ERMS 550)

- 1 • 9/15/2010 Chrono to acknowledge Erik Menendez as a facilitator of the American
2 Disability Act ADA awareness and support group Life Care and Hospice
3 Connections. (ERMS 562)

4 (See People Exhibit 6)

5 (b) VIVE

6 Erik Menendez created the Victim Impact & Victim Empathy for Vulnerable Populations
7 (VIVE) in 2022. In explaining the program Erik Menendez wrote:
8

9 *In order to accommodate more students for Life Care & Hospice (Post Covid the class*
10 *was restricted from 50 students permitted to 25 students in one space.) I was granted*
11 *special permission by the RJD prison's mental health Department to hold 8 week Victim*
12 *Impact & Victim Empathy (VIVE) workshops. VIVE is the Victim Impact part of the Life*
13 *Care & Hospice curriculum. (Letter to Counsel Mark Geragos from Erik Menendez, May*
14 *24, 2023) (See People's Exhibit 9)*

15 Chronos documenting Erik Menendez's leadership in the program and his successes are
16 as follows:

- 17 • 4/23/2024 Chrono from J. Hauser Psy.D. to acknowledge Erik Menendez for his
18 active facilitation in the Victim Impact & Victim Empathy for Vulnerable
19 Populations (VIVE) a six-week workshop.
- 20 • 1/2/2024 Chrono from J. Hauser Psy.D. Program Sponsor to recognize Erik
21 Menendez for "his active participation in the VIVE; Understanding Childhood Toxic
22 Shame. This individual also assisted on the coordination and facilitation of several
23 parts of the presentation. The workshop is a 6 week class-structured processing
24 workshop that focuses on understanding what toxic shame is and identifying its root
25 causes in the individual.
- 26 • 10/13/2023 Chrono from J. Hauser Psy. D Program Sponsor, to recognize Erik
27 Menendez for his active facilitation of the Victim Impact and Victim Empathy for
28 Vulnerable Populations (VIVE)
- 5/15/2023 Chrono from J. Hauser Psy.D. Program Sponsor to recognize Erik
Menendez for his facilitation of the curriculum for the Victim Impact & Victim

1 Empathy for Vulnerable Populations (VIVE). VIVE is an eight week workshop that
2 utilizes the victim impact elements of the Life Care & Hospice Education Program.

- 3 • 5/15/2023 Chrono from J. Hauser Psy.D. Program Sponsor to recognize Erik
4 Menendez for his facilitation of the curriculum for the Victim Impact & Victim
5 Empathy for Vulnerable Populations (VIVE). VIVE is an eight week workshop that
6 utilizes the victim impact elements of the Life Care & Hospice Education Program.
- 7 • 12/15/2022 Chrono from J. Hauser, Psy. D. to recognize Erik Menendez for
8 developing and presenting the curriculum for Victim Impact and Victim Empathy for
9 Vulnerable Populations (VIVE) VIVE is an 8 week workshop that utilizes the victim
10 impact elements of the Life Care and Hospice Program. Erik Menendez facilitated the
11 program during October and November 2022.
- 12 • 7/22/2022 Memorandum of approval for the "VIVE": Victim Impact and Victim
13 Empathy For Vulnerable Populations Program Proposal.

14 (See People's Exhibit 6)

15 (c) Twelve Step and Meditation Class

16 In 2022 Erik Menendez co-founded the Twelve Step Recovery and Meditation class.

17 Chronos documenting his leadership and facilitation of the program are as follows:

- 18 • 7/10/2024 Chrono from J. Hauser Psy.D. to acknowledge Erik Menendez facilitation
19 of an 8 session, 12 hour workshop Twelve Step Recovery with Meditation. Erik
20 Menendez is responsible for co-authoring the curriculum and presenting the
21 workshop.
- 22 • 4/23/2024 Chrono from J. Hauser Psy. D to acknowledge Erik Menendez facilitation
23 of an 8 session, 12 hour workshop Twelve Step Recovery with Meditation. Erik
24 Menendez is responsible for co-authoring the curriculum and presenting the
25 workshop.

- 1 • 4/2/2024 Chrono from J. Hauser, Psy.D. Program Sponsor, to commend Erik
2 Menendez for facilitating an 8 session, 12 hour workshop: Twelve Step Recovery
3 With Meditation.
- 4 • 1/2/2024 Chrono from J. Hauser Psy. D to acknowledge Erik Menendez facilitation of
5 an 8 session, 12 hour workshop Twelve Step Recovery with Meditation. Erik
6 Menendez is responsible for co-authoring the curriculum and presenting the
7 workshop.
- 8 • 9/15/2023 Chrono from J. Hauser Psy. D to acknowledge Erik Menendez facilitation
9 of the six session, 9 hour workshop: Twelve Step: Recovery with Meditation.
10 (ERMS 486)
- 11 • 4/14/2023 Chrono to acknowledge that Erik Menendez facilitated (6) session (6-9)
12 hour workshops, Twelve Step Recovery with Meditation This was the second cycle of
13 this workshop.
- 14 • 1/17/2023 Chrono from J. Hauser Psy. D to acknowledge Erik Menendez facilitation
15 of the six session, 9 hour workshop: Twelve Step: Recovery with Meditation.
16 (ERMS 493)
- 17 • 6/26/2022 Chrono from J. Hauser Psy. D. to acknowledge Erik Menendez facilitation
18 of an 8 session, 12 hour workshop Twelve Step Recovery with Meditation. Erik
19 Menendez is responsible for co-authoring the curriculum and presenting the
20 workshop (ERMS 499)
- 21 • 8/23/2022 Chrono to acknowledge that Erik Menendez facilitated (6) session (9) hour
22 workshop, Twelve Step Recovery with Meditation This was the second cycle of this
23 workshop.
- 24 • 4/28/2022 Memorandum to Facility E staff announcing the Twelve Step Recovery
25 program that teaches the AA/NA 12 steps in conjunction with mindfulness
26 meditation. The Memo documents that Erik Menendez was a Facilitator for the group.

(See People's Exhibit 6)

27 **(d) Insight Meditations Workshops**

28 In 2018 Erik Menendez created a meditation program for the inmates at RJ Donovan
Prison. Erik Menendez explains his reasoning for creating the program:

1 *In my central file I have numerous documentation of my work in and participation in*
2 *mediation as it connects to mindfulness and cognitive behavioral therapy (CBT), I have*
3 *practiced meditation for 25 years. Meditation has changed my life. In 2018 I created*
4 *INSIGHT MEDITATION to help teach inmates about the physical, emotional and*
5 *spiritual benefits of mindfulness meditation. (Erik Menendez, Letter to Counsel Mark*
6 *Geragos, February 8, 2016, Exhibit 6)*

7 Examples of Erik Menendez's leadership in the program are documented as follows:

- 8 • 7/7/2024 Chrono from J. Hauser Psy. D to acknowledge Erik Menendez facilitation of
9 the six week Insight Meditation: Basic Level Mindfulness workshop. Erik Menendez
10 was commended for his facilitation of this Mental Health sponsored program. (ERMS
11 472)
- 12 • 1/4/2024 Chrono from J. Hauser Psy. D to acknowledge Erik Menendez facilitation of
13 the six week Insight Meditation: Basic Level Mindfulness workshop. (ERMS 479)
- 14 • 8/1/2023, 9/18/2023, 4/23/2024 Laudatory Chrono to document that Erik Menendez
15 facilitated six (6) week insight meditation Basic Level Mindfulness workshops. "This
16 individual is commended for his facilitation of this Mental Health sponsored program.
17 (ERMS 474, ERMS 485, 489, 508)
- 18 • 4/14/2023 Chrono from J. Hauser Psy. D to acknowledge Erik Menendez facilitation
19 of the six week Insight Meditation: Basic Level Mindfulness workshop. Erik
20 Menendez was commended for his facilitation of this Mental Health sponsored
21 program.(ERMS 491)
- 22 • 11/14/2022 Chrono from J. Hauser Psy. D to acknowledge Erik Menendez facilitation
23 of the six week Insight Meditation: Basic Level Mindfulness workshop. Erik
24 Menendez was commended for his facilitation of this Mental Health sponsored
25 program. (ERMS 496)
- 26 • 6/14/2022 Chrono from J. Hauser Psy. D to acknowledge Erik Menendez facilitation
27 of the six week Insight Meditation: Basic Level Mindfulness workshop. Erik
28 Menendez was commended for his facilitation of this Mental Health sponsored
program (ERMS 501)
- 3/23/2020 Chrono to acknowledge that between December 7, 2019 and February 1,
2020, Erik Menendez facilitated the Insight Meditation workshops Insight Into Anger

1 for the Facility-E population. Each workshop is six (6) weeks, totaling nine (9) hours.
2 Erik Menendez is responsible for writing the curriculum and organizing and
3 presenting the workshops.

- 4 • 2/1/2019 Chrono from Captain E. Garza to document that between October 24 and
5 December 22 Erik Menendez facilitated the two Basic Level Insight Meditation
6 workshops. Each were 6 week longs and totaled 9 hours. (ERMS 512)
- 7 • 10/30/2019 Chrono from Captain E. Garza to document that between August 22 and
8 September 29 Erik Menendez facilitated the two Basic Level Insight Meditation
9 workshops. Each were 6 week longs and totaled 9 hours. (ERMS 514)
- 10 • 8/22/2018 Chrono from L. Eshelman Community Resource Manage, RJDCF. L.
11 Eshelman recognized Erik Menendez for his contribution to Facility E by creating the
12 Insight Meditation workshop. Between July 12 and August 16, Erik Menendez
13 facilitated the first Basic Level workshops (one morning and one evening) for the
14 Echo facility population. Each workshop is six (6) weeks, totaling (9) hours. (ERMS
15 517)
- 16 • 2018 Erik Menendez was the created of Insight Meditation to help teach fellow
17 inmates about the benefits of mediation. He teaches between 10-15 students a week.
18 He has also held classes for Spanish speaking only and disabled inmates. He teaches a
19 90 minute class once a week.

(See People's Exhibit 6)

20 **(e) Starlight Peace Project**

21 In 10/30/2018 Erik Menendez Co-founded the Starlight Peace Project. The stated mission
22 of the Starlight Peace Project is to create or capture images of peace in places associated with
23 violence and human struggle. An August 28, 2018, Chrono from E. Garza documented that Erik
24 Menendez and his Starlight co-founder served as co-directors for the "No Violence Challenge."
25 They were responsible for supervising 30 event coordinators and over 150 event participants,
26 including organizing the event, working with administrative staff to gain necessary permissions
27
28

1 to hold the event, and coordinating with San Diego State University staff to complete the No
2 Violence Challenge. (See People's Exhibit 6)

3 It is important to note that at one point with all the programs and classes Erik Menendez
4 founded, Erik Menendez was (and may still be) teaching five different classes in the course of a
5 week.
6

7 **(f) Alternatives To Violence Training (AVP)**
8

9 Erik Menendez has completed the Alternative to Violence training courses. He has successfully
10 trained to be a facilitator of their program.

- 11 • 2019 Erik Menendez became a lead facilitator for Alternatives to Violence (AVP)
12 He was appointed as one of two coordinators to lead the team of 32 AVP facilitators.
13 Erik Menendez facilitates a 2-day 15 hour AVP workshop once a quarter.
- 14 • 6/28/2019-6/30/2019 Certificate of completion of the Alternatives to Violence (AVP)
15 Facilitator Apprenticeship program
- 16 • 9/21/2018-9/23/2018 Certificate of Completion for the Alternatives to Violence
17 Training for Facilitators workshop.
- 18 • 7/20/2018- 7/21/2018 Certificate of Completion of the Advanced Training Course of
19 Alternatives to Violence (AVP)
- 20 • 3/16/2018- 3/18/2018 Certificate of completion of the Basic Course for Erik
21 Menendez's completion of the Alternatives to Violence Workshops for Training in
22 Nonviolent Conflict Resolution.

23 (See People's Exhibit 6)

24 **(g) Erik Menendez's Record of Participation in His Community**
25

26 In addition to being the creator and facilitator of the many programs that Erik Menendez
27 founded at prison; he is also an active member of his community. Some examples of Erik
28 Menendez's community engagement include:

- 1 • 1/2/2024 Chrono from J. Hauser Psy. D to acknowledge Erik Menendez for attending
2 the presentation by Ander Benser of UCSD, a computer science expert. (ERMS 481)
- 3 • 3/12/2024 Chrono to commend Erik Menendez for his positive long term efforts in
4 participation and contributions to the troubled youth throughout San Diego, as a
5 member of the focus group, taking part in monthly letter writing campaign targeting
6 youthful offenders housed in local county jails. (ERMS 477) Erik Menendez wrote
7 letters on the first Sunday of every month to write letters and explain his story of
8 incarceration, his regrets and what he has learned about himself. (ERMS 477)
- 9 • 11/2/2023 Chrono to document that Erik Menendez participated in a walk-a-thon
10 event for the American Red Cross. (ERMS 478)
- 11 • 9/20/2023 Chrono to commend Erik Menendez for being an active participant in
12 facilitating the Echo Yard Carnival on August 2, 2023. This carnival was a pro-social
13 event that built inclusivity, community and culture competency amongst inmate
14 populations on Facility E. (ERMS 484)
- 15 • 9/4/2023 Chrono from J. Hauser Psy. D to acknowledge Erik Menendez participation
16 in the “Be Brave” lecture presented by author and documentary filmmaker Leon
17 Logothetis. (ERMS 487)
- 18 • 9/4/2023 Chrono from Chaplain Campbell for Erik Menendez’s participation in the
19 “Wellness Workshop” featuring Anada Van Boeyen of UC Irvine. (ERMS 488)
- 20 • 11/15/2022 Chrono from J. Hauser Psy. D Program Sponsor, to recognize Erik
21 Menendez for his attendance at the Inmate Peer Health & Education Program
22 (IPHEP) topical lecture “Better, Not Bitter” (ERMS 495)
- 23 • 11/14/2022 Chrono from J. Bolton Psy D. to acknowledge that Erik Menendez
24 completed the 12 week group workshop called Domestic Violence Education and
25 Awareness. (ERMS 497)
- 26 • Participant in Brother Lyle Menendez’s Mural project, which will create murals on
27 1,000 feet long and 30 feet wide walls. Erik Menendez involvement will be 20 hours
28 a week as a lead muralist.
- 6/23/2022 Certificate of Completion for Erik Menendez completing a 7 session 12
hour course in Victim Awareness Program, designed for developing empathy
through victim awareness. (ERMS 500)

- 1 • 2/23/2022 Chrono to document that Erik Menendez completed the Self-directed
2 course Coping with Anger: Session 16. (ERMS 502)
- 3 • 12/7/2020 Chrono to document that Erik Menendez successfully completed the self-
4 directed course on Post-Traumatic Stress. (ERMS 503)
- 5 • 10/29/2020 Chrono to document that Erik Menendez completed the self-directed
6 workbook POSTIVE COPING WITH HEALTH CONDITIONS, through the mental
7 health and recreation therapy department (ERMS 505)
- 8 • 1/7/2020 Laudatory Chrono from B Self, CCII Field Specialist, Class Action
9 Management Unit RJDCF. B Self wrote to commend and thank Erik Menendez for
10 his assistance in organizing the Inmate Population on FAC E and preparing the
11 facilities for the Deaf Culture Town Halls, which are designed to educate and train
12 both staff and inmates on how to effectively communicate with Deaf individuals by
13 incorporating Sign Language and Deaf Culture into a prison Community. (ERMS
14 509)
- 15 • 12/19/2019 Certificate of Completion to document Erik Menendez's completion of
16 Stage 1 of the Connect with the Divine Facilitators Workshop.
- 17 • 10/23/2019 Chrono from K Eshleman Community Resource Manager RJ Donovan to
18 recognize Mr. Menendez for his outstanding contribution to Facility -E... as the
19 creator and facilitator of the American Disability Act (ADA) awareness and support
20 group LIFE CARE AND HOSPICE. L Eshelman wrote "You are commended for
21 developing the curriculum for this unique and innovative awareness and education
22 program that has been accepted as an official ILTAG. LIFE CARE AND HOSPICE
23 has helped to change the culture of Facility – E by incorporating members of the
24 disabled, infirmed and elderly population into the regular activities of the community
25 and building bridges between groups that may have one been considered separate.
- 26 • 11/7/2019 Chrono to document Erik Menendez's participation in the October 18,
27 2019 Cancer Walk for the Susan G. Komen foundation. (ERMS 510)
- 28 • 10/1/2019 Certificate of Completion of the Hero Maker Workshop.
- 5/10/2019 Certificate of Completion of the 7 hour simulcast seminar *Leadercast Live:
Leading Healthy Teams.*

- 1 • 4/2019 Certificate of Appreciation for Erik Menendez's efforts and contribution to
2 the Special Recreation Projects. Certificate of Award for the 2019 Spring Faculty
3 League Soccer Referee
- 4 • 4/14/2019 Letter from Judge Steve White of the Sacramento Superior Court checking
5 in with Erik Menendez on Erik Menendez's wellbeing. Judge White wrote about Erik
6 Menendez's presentation proposal for the "Ladder System." Although the program
7 was not ultimately approved, Judge White remarked how thoughtful and coherent the
8 presentation was.
- 9 • 11/7/2018 Chrono to document that Erik Menendez participated in the Annual Bready
10 Cancer walk to raise awareness and money for breast cancer research through the
11 Susan G. Komen Foundation. (ERMS 513)
- 12 • 9/25/2017 Chrono from IWL Supervisor Facility B, R.J.D.C.F., Supervisor Sanchez
13 wrote to commend Erik Menendez for his strong work ethic as an Inmate Ward
14 Laborer. Supervisor Sanchez wrote "Inmate Menendez is consistently respectful and
15 honest with his supervisors, takes direction well, and performs his job duties with a
16 professional attitude. Inmate Menendez has proved to be a disciplined worker. He
17 coordinates well with others, and he displays leadership qualities on the job site with
18 his co-workers. He remains mindful of safety protocols and has earned the trust of his
19 supervisors to work skillfully around heavy machinery... He transitions into each
20 new job task easily, without complaint and adapts well to changing job
21 circumstances. ... His exemplary behavior and job performance should be recognized
22 (duplicate entry)
- 23 • Summer 2018 Certificate of Recognition of Erik Menendez as a Recreational
24 Volunteer in the role of Summer soccer referee
- 25 • 11/1/2017 Chrono to commend Erik Menendez for his participation as a Kairos
26 Candidate during Kairos weekend October 19-22, 2017. The Kairos weekend
27 program is a short course, a total immersion for four days, introducing the candidates
28 to living in a Christian community (ERMS 520)
- 8/2017 Certificate of Recognition of Erik Menendez as a Recreational Volunteer in
the role of Summer soccer referee

- 1 • 7/18/2017 Letter of recommendation from fellow inmate Perales CDCR AR3398. Mr.
2 Pareles spoke his respect and admiration for Erik Menendez, as well as noting that
3 Erik Menendez is respected by the entire facility, inmates and staff alike.
- 4 • 4/1/2017 Chrono to commend Erik Menendez for his participation as a Kairos
5 Candidate during Kairos weekend March 23-March 26, 2017. The Kairos weekend
6 program is a short course, a total immersion for four days, introducing the candidates
7 to living in a Christian community (ERMS 524)
- 8 • 12/2016 Certificate of Recognition of Erik Menendez as a Recreational Volunteer in
9 the role of Football Referee.
- 10 • 11/5/2016 Chrono to commend Erik Menendez for his participation as a Kairos
11 Candidate during Kairos weekend October 27-30, 2016. The Kairos weekend
12 program is a short course, a total immersion for four days, introducing the candidates
13 to living in a Christian community. (ERMS 530)
- 14 • 10/27/2016- 10/30/2016 Certificate of Completion of the Kairos Short Course, a
15 three-and-one-half (3 ½) day introduction to living in Christian Community.
- 16 • 10/15/2016 Chrono to commend Erik Menendez for actively participating in the Life
17 Care & Hospice Connections.
- 18 • 5/2/2016 Certificate of Completion from American Community Corrections Institute
19 and Chrono to document that Erik Menendez completed the ACCI life Skills
20 Contentious Relationship workbook through the mental health department . (ERMS
21 538, 756)
- 22 • 4/16/2016 Letter of Acknowledgement from Prison Letters 4 Our Struggling Youth
23 verifying Erik Menendez's participation. (ERMS 1218)
- 24 • 4/11/2016 Certificate of acknowledgement for Erik Menendez's facilitating the
25 Infectious Disease Group where the fundamentals of risky behavior lead to HIV,
26 AIDS, HCV, HBV. (ERMS 757)
- 27 • 4/4/2016 Chrono from Rev. Richard Cummings Buddhist Priest, Zen Group Service,
28 The Reverend wrote "Inmate Menendez (K-14101) should be commended for his
selfless service to the inmate Zen community at R.J. Donovan Correctional Facility.
This inmate goes out of his way to help the disabled and elderly inmates who attend
the group. He assists them to and from their housing units, assists them with their

1 meditation posture and practice and helps them with various other needs during the
2 group period. He exhibits patience and compassion when working with these
3 handicapped inmates and is relied upon by our staff to do so. Menendez relates his
4 Zen practice of “Service to Others”, one of the Zen precepts, as the effort to make
5 amends for wrongs committed in his life. Menendez continues to be an exemplary
6 participant in the practice of Zen Meditation...” (ERMS 541)

- 7 • 3/17/2016 Laudatory Chrono from Corrections Officer D Rosario. C.O. Rosario
8 wrote “[t]his Chrono is in regard to the impressive display of rehabilitative behavior
9 conducted by Erik Menendez , CDC# K-14101 ... Over the past year, it has been
10 noticed that Menendez has gone above and beyond his duties as an inmate assistant
11 worker. Menendez constantly conducts welfare checks on all ADA inmates within not
12 only his personal housing unit but the entire B Facility. I have personally witnessed
13 many ADA inmates verbally thanking Mr. Menendez for his assistance in making
14 sure they receive proper treatment and that they make it to their medication/chow
15 lines without delay. Menendez is a constate motivator to his fellow housing unit
16 inmates as well. For example, I was informed by inmate Falco, ... that Menendez was
17 his motivation in pursuing the ability to walk again. Falco had not tried to walk for
18 several years and simply confined himself to a wheelchair. But after the encouraging
19 council of Menendez, inmate Falco found the strength and inspiration to better his life
20 and begin to be mobile once more. Menendez has also been putting together special
21 workshops to teach ADA inmates better healthcare habits and how to better cope with
22 their new way of life. For years, the public has heard of what the media portrays as
23 the notorious name of Erik Menendez. But as far as I can perceive from my
24 professional training as a Correctional Peace Office, Erik Menendez is a rehabilitated
25 man who humbly strives toward helping those in need. This concludes my memo.”
26 (ERMS 542)
- 27 • 3/2/3016 Certificate of Completion and Informational Chrono to document that Erik
28 Menendez completed the ACCI Life skills Domestic violence workbook through the
mental health department. The program was self-directed/ take home learning course.
The course focused on overcoming faulty thinking and self-defeating behaviors.
(ERMS 543, 758)

- 1 • 1/15/2016 Participation Chrono to document Erik Menendez's weekly attendance and
2 participation in the Infectious Disease Awareness Support Group. Erik Menendez
3 attended 10 separate group meetings. (ERMS 547)
- 4 • 12/26/2015 Laudatory Chrono from Correctional officer J. Nolan of the RJ Donovan
5 Facility. C.O. Nolan wrote stating that he felt that Erik Menendez should be
6 recognized for continued commendable behavior. C.O. Nolan wrote "Menendez's
7 conduct toward staff has shown maturity and growth. He is dependable, works
8 without complaint, and is always available when requested. He displays leadership
9 qualities, yet easily takes direction. He is respectful and cooperative when interacting
10 with staff and has proven to be reliable when working without supervision. I have
11 found him to be earnest and able to admit mistakes. He has shown an ability and
12 willingness to assist staff in resolving conflicts with inmates, seeking peaceful
13 resolutions. Menendez works as an inmate Care Giver, helping care for the elderly
14 and disabled. For several years I have observed him demonstrate compassion and
15 empathy for these ADA inmates, helping them with tasks many of them have
16 difficulty completing by themselves. He assists them with their meals, laundry, and
17 other basic living needs. He does so, both on and off duty, and displays sensitivity to
18 their disabilities, acceptance, and attentiveness. It is normal to see him spend extra
19 time to comfort and encourage them. Due to his concerns he has gained the respect of
20 those he cares for. His conduct has made a positive contribution to the facility and
21 should be recognized and commended. "Mr. Menendez was also given a Chrono in
22 recognition of his contribution to facilitating Zen meditation into Real Life issues.
23 (ERMS 552)
- 24 • 12/14/2015 Chrono to recognize service by Erik Menendez for his contributions to
25 Zen meditation (ERMS 553)
- 26 • 12/5/2015 Certificate of Completion Forgive to Live seminar. (ERMS 762)
- 27 • 11/23/2015 Laudatory Chrono from Rev Richard Cummings, Buddhist Priest.
28 Reverend Cummings commended Erik Menendez for his devoted practice of mindful
meditation and commented that Erik Menendez displayed patience and respect when
assisting new members of the group. Reverend Cummings commended Erik

1 Menendez was commended for his positive behavior and dedication to personal
2 growth. (ERMS 554)

- 3 • 11/5/2015 Certificate of Completion and Informational Chrono to document that Erik
4 Menendez completed the ACCI Life Skills Parenting workbook through the mental
5 health department. This was a self-directed/take home learning course. (ERMS 555,
6 761)
- 7 • 10/17/2015- 12/5/2015 Certificate of Completion for successful completion of the
8 Seventh-Day Adventist Prison Ministry *Forgive to Live* Seminar.
- 9 • 10/7/2015-Certificate of Completion and Informational Chrono to document that
10 Erik Menendez completed the American Community Corrections Institute (ACCI)
11 Life Skills Anger Management workbook through the mental health department. The
12 program was a self-directed/talk home learning course. (ERMS 556, 763)
- 13 • 8/2015 Certificate of Recognition of Erik Menendez as a Recreational Volunteer in
14 the role of Summer soccer referee.
- 15 • 7/12/2013 Laudatory Chrono for Erik Menendez's participation in a Victim
16 Awareness Workshop sponsored by Families of Incarcerated People. (ERMS 559,
17 561, 766)
- 18 • 10/24/2012 Certificate of Participation and Participation Chrono to document Erik
19 Menendez's participation in a victim awareness workshop sponsored by Families of
20 the Incarcerated program. (ERMS 633, 767)
- 21 • 10/5/2012 Informational Chrono to document the successful completion of a six
22 month emotional processing psychotherapy group. (ERMS 612.)
- 23 • 5/21/2012 Informational Chrono to document the successful completion of a six
24 month emotional processing psychotherapy group. (ERMS 635)
- 25 • 9/20/2011 Chrono to document that Erik Menendez has participated in an ongoing
26 mental health mindfulness course since June 2010. (ERMS 625)
- 27 • 4/24/2011 Laudatory Chrono for Erik Menendez's monetary contribution toward the
28 "Continuing the Dream-Southern California conference for Children of Incarcerated
Parents."
- 8/7/2009 Certificate of Completion of the Transforming Lives Network, *Success
From the Inside Out: Anger Control Training for Facilitators.*

- 1 • 8/7/2009 Certificate of Completion of the Transforming Lives Network, *Success*
- 2 *From the Inside Out: Communications.* (ERMS 768)
- 3 • 7/27/2009 Certificate of Completion of the Transforming Lives Network, *Success*
- 4 *From the Inside Out: Victim Awareness.* (ERMS 769, 1197)
- 5 • 7/27/2009 Certificate of Completion of the Transforming Lives Network, *Success*
- 6 *From the Inside Out: Stress Management.* (ERMS 1193)
- 7 • 7/27/2009 Certificate of Completion of the Transforming Lives Network, *Success*
- 8 *From the Inside Out: Anger Management.* (ERMS 1195)
- 9 • 3/27/2009; 4/4/2009 Certificate of Completion and Chrono for the completion of the
- 10 Friends Outside Parenting Program. The course was 30 hours of interactive
- 11 instructions on parenting skills. (ERMS 646, 1199)

(See People's Exhibit 6)

12 (h) Sobriety Maintenance

13
14 Despite not having a documented history of alcohol or substance abuse, Erik Menendez
15 has aggressive engaged in sobriety maintenance programming. In addition, his founding of the
16 Twelve Step Meditation Program, Erik Menendez actively participated in AA and NA
17 programming. Examples of his involvement include:
18

- 19 • 7/1/2017 Chrono to document that Erik Menendez was an active member of AA and
- 20 NA on Yard B. he attended every meeting regularly was the chairman of the program
- 21 from January 2017 to June 2017. He served in this role for one year. (Exhibit 6)
- 22 • 1/5/2016, 4/15/2016, 7/15/2016, 10/15/2016, 1/15/2017 Chronos to document Erik
- 23 Menendez attendance in the AA and NA programs every Monday (Exhibit 6)
- 24 ○ October 2015, November 2015, December 2015, January 2016, February
- 25 2016, March 2016, April 2016, May 2016, July 2016 August 2016,
- 26 September 2016, October 2016 and November 2016 and December 2016
- 27 • Self-reported 10 year involvement with AA.
- 28

- 2/22/2016, 2/26/2016 Certificates of Participation and Completion Recovery in Motion, a Criminal Gangs Anonymous workshop that included guidance on how to apply the 12 step in your life.
- 10/31/2013 Certificate of Congratulations acknowledging One Year of active participation in the Alcoholics Anonymous Program, October 2011- October 2012.
- 8/4/2010, 2/12/2011, 12/22/2011, s 4/2/2012, 9/9/2012, 12/30/2012 Laudatory Chronos for Erik Menendez being a member of good standing in AA “Living in Recovery”.
 - August 2009-November 2009, December 2009- March 2010, April 2010- June 2010, July 2010- September 2010, October 2010-January 2012¹, August 2011- December 2011, January 2012-March 2012; July 2012- September 2012; October 2012- December 2012
- 8/4/2010 Laudatory Chrono for being a member in good standing in NA “One Day at a Time”
 - August 2009-November 2009, December 2009-February 2010,

(See People’s Exhibit 6)

(i) Work History

Erik Menendez has excelled in the work environment, proving to be a great asset to the institution. Some examples of Erik Menendez’s work include:

MONTH AND YEAR OR RANGE OF TIME	JOB ASSIGNMENT
2/27/2020	Work Supervisor’s Report for position as ADA semi-skilled worker. Erik Menendez was rated as satisfactory in all reviewable categories. (SOM 715)
2/16/2019; 5/31/2019	Work Supervisor’s Reports for position as ADA semi-skilled worker. Erik Menendez was rated exceptional in all reviewable categories. Supervisor V. Freeman noted “Inmate Menendez

1		displayed exceptional interest in his current work assignment.” (SOMS 716, 717)
2		
3	8/25/2018	Work Supervisor’s Report for ADA Worker Semi-skilled position. Erik Menendez was rated exceptional in all reviewable behavior categories. The supervisor wrote “Inmate Menendez demonstrates Exceptional interest and skill in his current work assignment. Inmate Menendez continues to be a leader among his fellow ADA Semi-Skilled Workers. Inmate Menendez continues to care for the elderly and handicapped inmates in his charge at a level and quality that exceeds expectation.” (SOMS 718)
4		
5		
6		
7		
8		
9		
10	6/30/2018	Work Supervisor’s Report for position as ADA semi-skilled worker. Erik Menendez was rated as above average in all reviewable categories. (SOM 719)
11		
12		
13	9/25/2017	Laudatory Chrono from J. Sanchez IWL Supervisor to commend “Inmate Menendez ... for his strong work ethic and an Inmate Ward Laborer. Inmate Menendez is consistently respectful and honest with his supervisors, takes direction well and performs his job duties with a professional attitude. Inmate Menendez has proven to be a disciplined worker. He coordinates well with others, and he displayed leadership qualities on the job site with his co-workers. ... His exemplary behavior and job performance should be recognized.” (ERMS 521)
14		
15		
16		
17		
18		
19		
20		
21	8/27/2016; 11/26/2016	Work Supervisor’s Report for position IM Assistance. Erik Menendez was rated exceptional in 9 reviewable categories. He was rated above average in use of tools and equipment. The Supervisor wrote “ Inmate Menendez demonstrates exceptional interest and skill in his current work assignment. Inmate Menendez continues to be a leader among his fellow Inmate Assistance Caregivers.” (SOMS 720, 721)
22		
23		
24		
25		
26		
27	4/30/2016	Work Supervisors Report for Fac B IM Assistance -3/w. Erik Menendez was rated exceptional in 10 behavioral categories. The
28		

<p>1 2 3 4 5 6 7 8 9</p>	<p>Supervisor wrote “Inmate Menendez demonstrates Exceptional interest and skill in his current work assignment. Inmate Menendez continues to be a leader among his fellow Inmate Assistance Caregivers. Inmate Menendez continues to care for the elderly and handicapped inmates in his charge at a level and quality that exceeds expectation. Inmate Menendez performs “Health Care Checks” on the elderly inmates, motivates them, and counsels other inmates about their needs inmates Menendez should be commended for his outstanding efforts in the Inmate Assistance Program.” (SOMS 722)</p>
<p>10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>	<p>2/2/2016</p> <p>Work Supervisor’s Report for IM Assistance-3/W position. Erik Menendez was rated exceptional in 9 reviewable behavior categories. He was rated above average in use of tools and equipment. The Supervisor wrote “Inmate Menendez routinely displays commendable behavior in caring for ADA and handicapped inmates. His dependable work ethic and compassionate treatment of the elderly have become a contagious and prime example to the other Inmate Assistant Caregivers. He teaches other inmate Assistant Caregivers how to anticipate the needs of those they assist, and he encourages a deeper sensitivity toward the ADA inmates. He is dedicated to his work, and he maintains an exceptional working relationship with staff and inmates. He is respectful, impartial, and is fair with all staff and inmates he comes in contact with. Because of his conduct, and his ability to positively lead other inmates, he has assumed the role of Lead Inmate Assistance Caregiver. (SOMS 723)</p>
<p>25 26 27 28</p>	<p>10/23/2015</p> <p>Work Supervisors Report for position I/M Assistance. Erik Menendez was rated above average in 9 reviewable categories and satisfactory in use of tools and equipment. The Supervisor wrote “Inmate displays supervisory leadership among his fellow inmate workers...” (SOMS 724)</p>

1 3/31/2002

Work Supervisors Report for position of TIER Tender. Erik Menendez was rated exceptional in all reviewable categories. (ERMS 702)

2
3
4 **IV. LYLE MENENDEZ'S POST-CONVICTION FACTORS SHOW HIS**
5 **CURRENT SENTENCE OF LIFE WITHOUT PAROLE IS NO LONGER**
6 **IN THE INTEREST OF JUSTICE**

7
8 Lyle Menendez has established an overwhelming record of rehabilitation in satisfaction of
9 the considerations for recall and resentencing contemplated under Penal Code section 1172.1. His
10 in-prison record demonstrates "sustained compliance with departmental regulations, rules, and
11 requirements, as well as prolonged participation in rehabilitative programming." (Cal. Code Regs.,
12 tit. 15, § 3076.1, subds. (a)(1) and (b)(1).)

13
14 **A. Lyle Menendez's Disciplinary Record**

15 As stated above, the Court may consider a defendant's prison disciplinary record as one
16 factor among others in evaluating whether he should be resentenced. (§1172.1, subd. (a)(4).) Here,
17 Lyle Menendez's overall disciplinary record while incarcerated is reflective of his positive
18 trajectory throughout his period of incarceration.

19
20 Lyle Menendez has had five Rule Violations Reports ("RVRs") in over 30 years of
21 incarceration.

22
23 3/15/2024- Cell phone possession, in a cell he shared with multiple other people.

24 1st occurrence- no STG Nexus.

25 6/1/2000- Misuse of state phones. Lyle Menendez was using the phone when he
26 shouldn't have.

27 5/21/2013 Possession of contraband- Lyle Menendez was in possession of a lighter

28 7/5/1988- Receiving contraband- a female visitor brought him new Adidas shoes in
the visiting room.

1 9/20/1996- Refusing an order. Lyle Menendez refused to leave Administrative
2 Segregation when ordered to join the Orientation Dorm

3 It is important to note that Lyle Menendez has not been in a single fight in the 30 years he
4 has been incarcerated. In 1997 he had to be moved from General Population to the Special Needs
5 Yard because he wouldn't fight back when attacked.

6 (See People's Exhibit 7)

7
8 **B. Lyle Menendez's Predictive Scores**

9 Lyle Menendez's current California Static Risk Assessment (CSRA) rating is a 1 (low) on
10 a 1 to 5 scale. His current classification score (CS) is 19, with 19 being the lowest score possible
11 for someone serving a Life Without Parole sentence. Lyle Menendez's computed classification
12 score before being readjusted to 19, has been a 0 since at least 2014. He is presently at a level II
13 facility. By the CDCR's own designation, Lyle Menendez is considered a low-risk to reoffend.
14 (See People's Exhibit 7)

15
16
17 **C. Lyle Menendez Post-Conviction Factors**

18 An inmate's suitability for release may be premised upon a showing of "overwhelming"
19 evidence of rehabilitation. (*In re Lawrence* (2008) 44 Cal.4th 1181, 1191.) Here, Lyle
20 Menendez has programmed extensively during his more than 30-year period of incarceration.

21
22 **1. Education**

23 Lyle Menendez has excelled in the academic environment. He recently graduated from
24 the University of California Irvine (UCI) with his Bachelor of Arts (BA) degree. It is reported
25 that Lyle Menendez was on the Dean's list every semester and was nominated for the National
26 Merit Society in 2023. Lyle Menendez received a United States Senate Certificate of
27 Commendation from Senator Laphonza Butler to congratulate Lyle Menendez's graduation from
28 UC Irvine through the LIFTED Program . Prior to attending UC Irvine, Lyle Menendez earned

1 his Associates of Arts (AA) degree in Sociology from Southwestern College and was accepted
2 into the Honor's Society. Lyle Menendez was recognized by California Assembly Member
3 David Alvarez for his accomplishment. Prior to earning his AA degree, Lyle Menendez also
4 matriculated at Indiana University. (See People's Exhibit 8)

6 **2. Self-Help and Recovery Programming**

7
8 Lyle Menendez has proven himself to be an incredible asset to his prison community. He
9 has held significant leadership roles for more than a decade, as documented in a March 16, 2017
10 Laudatory Chrono from Associate Warden of Program and Housing, B Holmes. In the March 16,
11 2017 Laudatory Chrono Associate Warden Holmes noted that Lyle Menendez was elected
12 Representative for Prisoners in Northern CA prisons back in 2003. "For over ten years serving
13 in that capacity, he has worked productively with the administration to foster a positive
14 programming culture at MCSP." (Exhibit 8).

15
16 Associate Warden Holmes noted that in 2003, Lyle Menendez was able to convince
17 prison population on Max security yard to live alongside the mental health program prisoners-
18 resulting in the CDCR not needing to build a separate yard. In 2007, Lyle Menendez worked
19 with inmate population to build consensus to allow integrated housing to be implemented by
20 CDCR without inmate pushback. Lyle Menendez went cell to cell speaking to inmates
21 individually to garner cooperation. Because of Lyle Menendez's ability to garner inmate "buy
22 in" to integrated housing, the CDCR was able to close a discipline dorm. Furthermore, Lyle
23 Menendez drafted the bed move section in TITLE 15 Regulations Code, which is still in effect
24 today. (See People's Exhibit 8)

1 **3. Program Development**

2 In addition to being a leader amongst his peers, Lyle Menendez has created four new
3 programs within the Prison system to assist and better his fellow inmates' quality of life. Specific
4 programs that Lyle Menendez has created:

5
6 **(a) GREENSPACE**

7
8 The GreenSpace project was developed by Lyle Menendez in 2018. It is a 2 phase project to
9 beautify the prison. The project will paint enormous landscape murals along the entire interior
10 of the facility exercise yard wall and redesign the prison landscape. To undertake this project
11 Lyle Menendez founded the Rehabilitation through Beautification (RTB) Group. The project
12 began 5 years ago. Lyle Menendez has partnered with various local businesses, landscape
13 developers, all levels of prison administration. He has raised over \$250,000. In addition, Lyle
14 Menendez has partnered with Guide Dogs of America to raise \$100,000 for artificial grass
15 materials. Lyle Menendez has been entrusted by the CDCR administration to be in charge of
16 inventory control for the project (See People's Exhibit 8)

17
18
19 **(b) Rehabilitation Through Beautification (RTB)**

20
21 Lyle Menendez in furtherance of the Greenspace initiative, founded the Rehabilitation
22 Through Beautification (RTB) volunteer work group, for inmates to participate in the
23 Greenspace mural painting and landscaping improvements. (See People's Exhibit 8)

24
25 **(c) Adverse Childhood Experience and Rehabilitation (ACER)**

26
27 Lyle Menendez founded the Adverse Childhood Experience and Rehabilitation, (ACER)
28 program in 2016. ACER seeks to provide non-clinical framework for offenders to explore their

1 own childhood history and its causal relationships to personality traits that can lead to
2 criminality. (See People's Exhibit 8)

3 **(d) Youth LWOP Ally**

4
5 Lyle Menendez founded a group made of exclusively of youth offenders with LWOP
6 sentences for the purposes of mentoring non-LWOP prisoners who were working on their
7 rehabilitation goals in 2013. (See People's Exhibit 8)

8
9 **(e) WIRE Bulletin**

10 Lyle Menendez created and wrote the "WIRE" bulletin, an inmate advisory bulletin for
11 the purposes of communicating Inmate Advisory Council (IAC) matters to the population. The
12 WIRE bulletin was supported by RJD mental Health to help keep low functioning prisoners in
13 the Mental Health Program better informed. It was noted that "[u]sing a bulletin method is
14 important when a facility has an EOP unit as those inmates often will not or cannot digest full
15 page memorandums/minutes on a wall but will read a bulletin with brief updates. Often one
16 roommate will read the bulletin out loud to their lower functioning roommates. For this reason,
17 the 'WIRE' bulletin is supported by Mental Health." (See People's Exhibit 8)

18
19
20 **(f) Additional Programming**

21 In addition to all of the work Lyle Menendez did to create grand scale programs, he has
22 done additional programming as well.

- 23
- 24 • 4/23/2024- Chrono from J Hauser, Psy, D to document that Lyle Menendez attend the
25 VIVE six- week workshop program focuses on developing greater empathy for
26 vulnerable populations in prison. (ERMS 329)
 - 27 • 12/21/2022 Chrono from J Hauser, Psy, D to document that Lyle Menendez attended and
28 participated in the UCI Under-ground scholars "Transformative Education Pathways"

1 lecture sponsored and hosted by the Inmate Peer Health & Education Program (IPHEP)
2 (ERMS 330)

- 3 • 8/22/2018 Chrono from L. Eshelman, Community Resource Manage RJDCF, to
4 commend Lyle Menendez for his voluntary participation and completion of the INSIGHT
5 MEDITATION: a six (6) basic workshop totaling nine (9) hours. (ERMS 332)
- 6 • 4/27/2017 Laudatory Chrono for participation in the Mule Creek State Prison's 10th
7 annual National Crime Victim's Week activities by attending the Thursday April 6, 2017
8 speaker panel where R. Nelson, the father of Monique Nelson who died protecting the
9 life of her 2 year old son in the midst of a gang shootout. (ERMS 337)
(See People's Exhibit 8)

10
11 **V. CIRCUMSTANCES HAVE CHANGED SINCE THE ORIGINAL SENTENCES**
12 **WERE IMPOSED A SENTENCE OF LIFE WITHOUT PAROLE IS NO LONGER**
13 **IN THE INTEREST OF JUSTICE.**

14 Presently, there is no statutory definition of what qualifies as being in "furtherance of
15 justice." (*People v. Superior Court (Romero)* (1996) 13 Cal.4th 497, 530.) However, when
16 dismissing criminal charges prior to conviction, it is established that such considerations require
17 weighing and balancing of an individual's constitutional rights against the general interests of
18 society. (*People v. Superior Court (Flores)* (1989) 214 Cal.App.3d 127, 144.) When determining
19 whether the appropriate circumstances exist to justify resentencing, at minimum, there must be an
20 identifiable reason for doing so that is sufficient to "motivate a reasonable judge." (*Romero, supra*,
21 13 Cal.4th 497, 530-31.)
22
23

24 Erik and Lyle Menendezs' positive transformation, as well as their ability to find meaning
25 and purpose from their current confinement illustrate just how much circumstances have changed
26 since the time they were sentenced to Life Without Parole.

27 *My journey of healing, making amends, and understanding my Life Crime, along*
28 *with the process of rebuilding my life, has been long and challenging. I had to let*

1 go of the only value system I had ever known—beliefs and principles instilled in
2 me by my parents from infancy—and explore anew the meaning of values, love,
3 and compassion within a community. I had to reshape my understanding of
4 success and reevaluate what it means to live a life of true purpose. Today, I find
5 my value in the exchanges of kindness I have with others, in living as a caring and
6 loving husband and father, and in trying to be a compassionate friend and a
7 helpful, contributing member of my community. To this end, the principles of my
8 life have become rooted in empathy and, where possible, in service.

(See People’s Exhibit 9: Exhibit 6: Erik Menendez, Insight Statement,
Understanding the Nature and Magnitude of My offense)

9 The unprecedented publicity surrounding the case and my own admissions as a
10 survivor of sexual abuse brought an outpouring of communication with other
11 victims of rape and incest across the country and world. I decided early on in my
12 incarceration to connect with abuse survivors. My own life will never be free of
13 suffering, but I found a way to use shared experiences to help others and myself
14 heal and understand this complex trauma. I asked my family to create a public
15 figure Facebook page in my name as a safe space for survivors of sexual abuse. I
16 have spent countless hours with my family helping contribute to its content
17 through the mail and over the phone by audiogram. The site is visited by tens of
18 thousands of abuse survivors each week. In addition, I have personally written
19 thousands of letters to abuse victims in response to their letters to me. The
20 sharing has been a profound experience and helped my own healing process.
21 Another surprising result of being so public about my own sex abuse is the
22 enormous number of prisoners who have confided their own shameful
23 experiences with this trauma. They found in me a safe place to share. As a result,
24 I have spent two decades facilitating groups informally and formally for prisoners
25 who experienced sex abuse as children. I founded a group called ACER (SEE
26 ACER MEMORANDUM) that allows groups of prisoners to understand their past
27 childhood trauma. Networking with mental health experts outside the prison, we
28 were able to allow professional feedback and provide guidance.

(See People’s Exhibit 9: Lyle Menendez, Personal Rehabilitation Narrative)

25 Erik and Lyle Menendez committed their crimes when they were 18 and 21 years old. They
26 were admitted to CDCR at ages 25 and 28-years-old, respectively. Having experienced a
27 significant amount of trauma and abuse as a children. Today, they are 54 and 56-year-old men
28 who have both demonstrated a deep sense of self-awareness, and connectedness to a positive,

1 prosocial community (both inside prison and outside in the community they intend to return to).
2 Erik and Lyle Menendez have done a tremendous amount of self-work while in custody and are
3 now able to use their lived experience to support and help their communities.

4 With respect to Erik Menendez, Correctional Officer V. Freeman, Inmate Assistant
5 Program Supervisor, Richard J. Donovan Correctional Facility wrote:

6
7 *When asked about his commitment and commendable work ethic as a Caregiver for the*
8 *elderly and ADA inmate, Menendez stated, 'My maturity has taken time, through a lot of*
9 *failures and insight. I have a great deal to make up for. The truth is, in assisting and serving*
10 *the handicapped, they have healed me more than anything I could ever do for them.'*
11 *Menendez's efforts and passion as a Caregiver has had a contagious and positive effect on*
12 *the quality of care given by numerous members of his crew. He has helped change the face*
13 *of Caregiving for the elderly and handicapped on this watch. As such, his conduct should*
14 *be commended and documented for future supervisors.*

15 (See People's Exhibit 11: V. Freeman, Correctional Officer, Inmate Assistance Program
16 Supervisor, Richard J. Donovan Correctional Facility, March 1, 2016)

17 CDCR staff, program leaders, and employers have recognized Erik and Lyle Menendez's'
18 transformations. In a Letter of Support for Consideration of Resentencing Joseph Lyle Menendez
19 from April 23, 2024, Correctional Lieutenant Victor Cortes wrote:

20 *I did not know Lyle Menendez prior to his arrival at RJDCF, therefore I can only*
21 *provide my evaluation of him while he has been assigned to Facility E. However,*
22 *I believe the time I have supervised him gives me a very reliable assessment.*
23 *Furthermore, a review of a central file memorandum written by the Mule Creek*
24 *State Prison Associate Warden of Program & Housing, Brian Holmes, which*
25 *describes the conduct of Mr. Menendez over the ten years prior to his arrival at*
26 *RJDCF, indicates a similar assessment as his exhibiting exceptional conduct, a*
27 *high degree of character and trustworthiness, detailing the numerous ways he*
28 *contributed to the safety and stability of the prison for inmates and staff alike.*
These two assessments show a consistency of character and exceptional conduct
spanning the last fifteen years. I along with many of my colleagues whom I know
share these sentiments, strongly urge the Court, the District Attorney, the
Governor of California, and any other relevant government bodies to consider the
resentencing of Lyle Menendez. I believe that providing him with a second chance
at freedom is consistent with our belief in the legal system to recognize when an
individual has truly changed their life for the better of their families, communities,

1 *and himself. Should there be any need for further discussion or information*
2 *regarding this matter, please know that I am fully prepared and willing to assist*
3 *in any way possible. If helpful, I can also be available to*
4 *appear in person at any relevant proceedings.*

5 (See People's Exhibit 11: Victor H. Cortes, Correctional Lieutenant, Richard J.
6 Donovan Correctional Facility, Letter In Support for Consideration of
7 Resentencing of Joseph Lyle Menendez, April 23, 2024)

8 Both Erik and Lyle Menendez have been recognized for their work ethic, professionalism, and
9 being significant contributors to the betterment of the community they live in. Over the past 30
10 years, Erik and Lyle Menendez have participated in victim impact programs, workshops, and
11 events. They have created multiple programs in service to those in need around them. Both the
12 prison environment and the prison administration of the facilities they have resided at, have greatly
13 benefited from their contributions. The CDCR was actually able to close an entire discipline dorm
14 based on Lyle Menendez's ability to build consensus among inmates and the administration. Erik
15 and Lyle Menendez understand the harm they caused extended far beyond the direct victims of the
16 offense. Their crimes have impacted their family, friends, and the community more broadly. It is
17 important to note that other than the two fist fights Erik Menendez was in, in 1997 and 2011
18 (thirteen years ago) neither Erik nor Lyle Menendez have engaged in a single act of violence before
19 the crimes in this case nor have they engaged in any form of aggression after their crimes were
20 committed, during their entire 30 year period of incarceration. They have never been found in
21 possession of a weapon and have never affiliated with the prison gangs.

22 The murders of Jose and Kitty Menendez in August 1989 although clearly planned, came
23 upon the heels of years of alleged sexual and emotional abuse. Removed from the horror of what
24 was described to have occurred in the family home, both Erik and Lyle Menendez have shown
25 themselves to be empathic individuals who care for and participate in the community for the
26 betterment of the collective.

1 A review of each defendant's prison file shows that there is no evidence that either Lyle or
2 Erik Menendez would be likely to commit a super strike upon release.

3
4 **VI. MARSY'S LAW**

5
6 As relevant here, pursuant to Marsy's Law, victims of crime have a right "to reasonable
7 notice of all public proceedings, including delinquency proceedings, upon request, at which the
8 defendant and the prosecutor are entitled to be present and of all parole or other post-conviction
9 release proceedings, and to be present at all such proceedings." (Cal. Const., Article I, Section
10 28(b).) It is widely known that the members of the Menendez family are in full support of the
11 resentencing of Erik and Lyle Menendez. Members who have voiced their support include Kitty
12 Menendez's sister Joan Andersen VanderMolen, who at the age of 93 flew into the State of
13 California, to participate in a press conference called by the family to voice their desire to have
14 Erik and Lyle Menendez resentenced. She also attended a meeting, with the Los Angeles District
15 Attorney's Office in compliance with Marsy's law, accompanied by almost 30 other extended
16 family members, wherein they all expressed their strong support of Erik and Lyle Menendez
17 being resentenced. The family members in support of the resentencing of both Erik and Lyle
18 Menendez collectively confirm that the men were sexually abused by Jose Menendez when they
19 were children.¹⁰ (See People's Exhibit 12)

20
21
22
23 There is a single family member, Milton Anderson, who is opposed to a resentencing of
24 any kind. He declined to meet with the Deputy District Attorneys assigned to assess this case to
25 discuss his Marsy's law rights or give direct input. Mr. Milton, however, has made his opposition
26

27
28 ¹⁰ Erik Menendez reported that his father sexually assaulted him until the age of 18. The assaults were alleged to have only ceased when Jose Menendez was killed.

1 clear through his attorney's public appearances and statements issued to the Press expressing his
2 total opposition to resentencing, disbelieving that any abuse had occurred in the Menendez
3 family home prior to the killings. It is expected that Mr. Milton Anderson will make a personal
4 statement when this motion is litigated.
5

6 **VII. THE COURT SHOULD USE ITS BROAD DISCRETION UNDER**
7 **PENAL CODE SECTIONS 1172.1, RESENTENCE THE DEFENDANTS.**

8 To date, Erik and Lyle Menendez have each served 30 years of their current sentence.
9
10 When Erik and Lyle Menendez were sentenced to Life Without the possibility of Parole in 1996
11 their sentences were aligned with what was considered the best public safety practices. What is
12 considered best practices for public safety, however, has evolved. We now understand that public
13 safety is not best achieved through overly harsh punishments that ignore rehabilitation. Instead,
14 public safety is best achieved through a combination of punishment, rehabilitation, restorative
15 justice and proportionality, and meaningful community engagement, including re-entry support
16 and services to the victims of crime.
17

18 While incarcerated, Erik and Lyle Menendez have transformed and taken advantage of
19 meaningful opportunities to mature, move beyond criminal thinking, repent, and become a
20 productive community members. Both men have been incredible contributions to the prison
21 system as a whole and to their fellow inmates on a very personal level. Erik and Lyle Menendez
22 have done and continue to do their good works and contributions, done without any expectation
23 or hope of ever being released. While incarcerated, Erik and Lyle Menendez have shown
24 themselves to be contributing and functioning individuals. As demonstrated through their prison
25 records, both Erik and Lyle Menendez present as individuals who are not likely to commit any
26 new offenses, much less a super strike, and are ready to reenter society. The underlying goals of
27
28

1 accountability, retribution, and rehabilitation for both Erik and Lyle Menendez have been
2 achieved. They have used their time of incarceration well and now show that they are not a risk
3 to public safety. Erik and Lyle Menendez both deserve a lesser sentence.

4 For all the reasons articulated above, the People believe it is in the interest of justice to
5 resentence Erik and Lyle Menendez to a sentence that aligns with their present levels of
6 rehabilitation. Therefore, the People ask the Court to recall Erik and Lyle Menendez's' sentences
7 and resentence each of them to a new term of 50- years to Life as described below.
8

9
10 **VIII. THE IMPOSITION OF A NEW SENTENCE WILL ALLOW THE DEFEDANTS**
11 **TO GO THROUGH THE PAROLE PROCESS**

12 Effective January 1, 2014, Penal Code section 3051 created a youth offender parole hearing
13 process that will apply to both Erik and Lyle Menendez if they are resentenced to a sentence
14 other than life without the possibility of parole. A youth offender parole hearing is a hearing by
15 the Board of Parole Hearings for the purpose of reviewing the parole suitability of any prisoner
16 who was 25 years of age or younger at the time of the controlling offense. Pursuant to the
17 statute, a person who was convicted of a controlling offense that was committed when the person
18 was 25 years of age or younger and for which the sentence is a life term of 25 years to life shall
19 be eligible for release on parole at a youth offender parole hearing during the person's 25th year
20 of incarceration. The youth parole eligible date for a person eligible for a youth offender parole
21 hearing under this paragraph shall be the first day of the person's 25th year of incarceration. At
22 the parole hearing, it is statutorily mandated that in assessing growth and maturity, psychological
23 evaluations and risk assessment instruments, if used by the board, shall be administered by
24 licensed psychologists employed by the board and shall take into consideration the diminished
25 culpability of youth as compared to that of adults, the hallmark features of youth, and any
26
27
28

1 subsequent growth and increased maturity of the individual. Family members, friends, school
2 personnel, faith leaders, and representatives from community-based organizations with
3 knowledge about the individual before the crime or the individual's growth and maturity since
4 the time of the crime may submit statements for review by the board. The youthful offender
5 parole hearing process is not available to inmates serving sentences of life without the possibility
6 of parole which is why neither of the defendants has been able to previously seek this
7 opportunity. **CONCLUSION**

8
9
10 WHEREFORE, the PEOPLE respectfully request that this Court resentence Lyle and
11 Erik Menendez pursuant to Penal Code §1172.1(a)(1) as follows:

12 **1. Resentence Erik Menendez**

13 Count 1: First-degree Murder – 25 to life in state prison

14 Count 2: First-degree Murder – 25 to life in state prison consecutive

15
16 TOTAL SENTENCE: 50 years to Life in state prison

17 **2. Resentence Lyle Menendez**

18 Count 1: First-degree Murder – 25 to life in state prison

19 Count 2: First-degree Murder – 25 to life in state prison consecutive

20
21 TOTAL SENTENCE: 50 years to Life in state prison

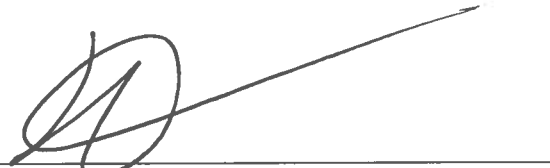
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Dated: *10/20/2014*

Respectfully Submitted,

GEORGE GASCON
DISTRICT ATTORNEY



Nancy A. Theberge
Deputy-In-Charge
Resentencing Unit
Los Angeles District Attorney's Office



Brock Lunsford
Assistant Head Deputy
Post-conviction and Litigation
Los Angeles District Attorney's Office

Deadline

1 **DECLARATION OF SERVICE BY ELECTRONIC MAIL**

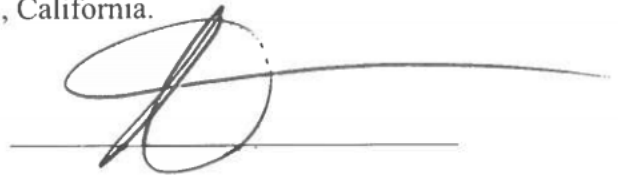
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4 STATE OF CALIFORNIA }
5 } SS.
6 COUNTY OF LOS ANGELES }

7
8 The undersigned declares under the penalty of perjury that the following is true and
9 correct:

10 I am over eighteen years of age and employed in the Office of the District Attorney of
11 Los Angeles County with offices at 320 West Temple Street, Suite 540, Los Angeles,
12 California 90012. On the date of execution hereof I served the attached document entitled
13 **PEOPLE'S PETITION TO RESENTENCE PURSUANT TO PENAL CODE SECTION**
14 **1172.1; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF,**
15 **by EMAIL or** by depositing true copies thereof, enclosed in sealed envelopes with postage
16 thereon fully prepaid, in the United States mail in the County and City of Los Angeles,
17 California, addressed as follows:

18
19 ATTORNEYS: Mark Geragos [REDACTED]
20 Alexandra Kazarian [REDACTED]

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22 Executed on *10/29/2017* at Los Angeles, California.

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