

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF CONTRA COSTA

FILED
JAN 27 2025

K. BIEKER CLERK OF THE COURT
SUPERIOR COURT OF CALIFORNIA
COUNTY OF CONTRA COSTA

By

J. P. BIEKER, Deputy Clerk

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

CORRESPONDENCE

DKT 05000806562

Vs.

NATHAN MEDINA

Defendant.

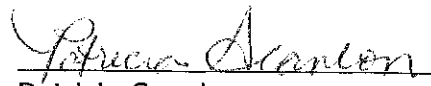
The court is in possession of your Motion for Discovery received on September 20, 2024, and December 9, 2024.

You have not shown that your trial attorney had a copy of the material you seek but lost the material. A statement that you sent a letter to your trial attorney on September 4, 2024, is insufficient. The letter that you sent requests a full and complete copy of the trial file, and index of the discovery provided, and a Certificate of Compliance is an overreach. Your trial counsel must give you only what he has.

You were recently represented by Deputy Public Defender Teresa Hernandez on a request for resentencing pursuant to Penal Code section 1172.6, which was denied by Judge Kennedy on November 12, 2024. The court would expect the topic of your trial attorneys file would have arisen during this time period.

Until you can demonstrate your diligence in obtaining the file, the court declines to set a compliance date.

Dated: 1-27-2025


Patricia Scanlon
Judge of the Superior Court,
Department 3

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF CONTRA COSTA**

ACTION NO:
05000806562

CERTIFICATE OF SERVICE BY MAIL

I, the undersigned, certify under penalty of perjury that I am a citizen of the United States, over 18 years of age, employed in Contra Costa County, and not a party to the within action; that my business address is Court House, 1020 Ward St., Martinez, California, 94553 that I served the attached Order by causing to be placed a true copy thereof in an envelope addressed to the parties or attorneys for the parties, as shown below, which envelope was then sealed and postage fully prepaid thereon, and thereafter was deposited in the United States mail at Martinez, California, on date shown below; that there is delivery service by the United States Mail between the place of mailing and the place addressed.

Nathan Medina #AA4500
Soledad State Prison
PO Box 705
Soledad, CA 93969

Attorney Dirk Manoukian
C/O Placer County District Attorney's Office
10810 Justice Center Dr #240
Roseville, CA 95678

Contra Costa Public Defenders Office
Teresa Hernandez DPD
800 Ferry St
Martinez, CA 94553

Contra Costa District Attorney
Caleb Webster DDA
900 Ward St
Martinez, CA 94553

I declare under penalty of perjury that the forgoing is true and correct. Executed at Martinez, California, on 1/28/25.

K. BIEKER, CLERK OF THE COURT


By: J. Arnold, Deputy Clerk

FELONY AND MISDEMEANOR CLERK'S DOCKET AND MINUTES

DEFENDANT MEDINA, NATIVIDAD DEPT. 008 DATE 11/12/2024 TIME 9:30 AM
ADDRESS 2472 MORELLO HEIGHTS (CIRCLE), MARTINEZ, CA 94555 DOB 11/16/1965
ROC: HG - Dec. OSC PROB DEFENSE ATTORNEY HERNANDEZ TIME NOT WAIVED
CUSTODIAL STATUS: INACTIVE SP-Correctional Training Facility - Soledad, CA
CHARGES 001 (FEL) "PC 187" - FEL, 002 (FEL) "PC 187(a)/664(a)" - FEL,

003 (FEL) "PC 459/460(a)" - FEL, 004 (FEL) "PC 187(a)/664(a)" - FEL, 005 (FEL) "PC 187(a)/664(a)" - FEL

JUDGE J. Kennedy COURT REPORTER J. Burnett CLERK I. Quintero
ASSIGN COURT REPORTER
TO DEPT JUDGE REPORTER CLERK G. Romero

A P P E A R A N C E	<input type="checkbox"/> Def proceeds <input type="checkbox"/> PER <input type="checkbox"/> Appearance waived <input checked="" type="checkbox"/> Def appears <input type="checkbox"/> In Custody <input type="checkbox"/> Def not appearing <input type="checkbox"/> With / by Atty <u>Pub Def I. Hernandez</u> <input type="checkbox"/> Deputy District Atty <u>G. Chiarella</u> <input type="checkbox"/> Court Probation Officer <input type="checkbox"/> Interp <input type="checkbox"/> cert <input type="checkbox"/> non-cert. sworn / oath on file: qualified per Rule 2.893 <input type="checkbox"/> Order <input type="checkbox"/> Interp <input type="checkbox"/> Coord. Notified <input type="checkbox"/> Refer to PD / PROB B Study / PPR <input type="checkbox"/> Confl. Notified <input checked="" type="checkbox"/> PD / ADO / PVT <input type="checkbox"/> accepts <input type="checkbox"/> reliever <input type="checkbox"/> appt d <input type="checkbox"/> 170.8 / 171 CCP filed: Order <input type="checkbox"/> Granted <input type="checkbox"/> Denied	A R R A I G N M E N T	<input type="checkbox"/> Handed copy of <input type="checkbox"/> Petition to Revoke <input type="checkbox"/> Information / Indictment <input type="checkbox"/> PX / GJ transcript <input type="checkbox"/> Complaint/Discovery <input type="checkbox"/> Bail Study <input type="checkbox"/> Formal arraignment waived: Reading of Compl <input type="checkbox"/> Duty arraigned <input type="checkbox"/> Video <input type="checkbox"/> on Prob. Viol. <input type="checkbox"/> Answers true name as charged <input type="checkbox"/> Deny enhancements <input type="checkbox"/> Plea of not guilty entered <input type="checkbox"/> Time not waived <input type="checkbox"/> PC977 waiver filed	W A R R A N T	<input type="checkbox"/> Bench Warrant to issue <input type="checkbox"/> Bail set at \$ <input type="checkbox"/> No Cite/PTA release <input type="checkbox"/> No vol app <input type="checkbox"/> Hold until <input type="checkbox"/> Bail forfeited & continued 180 days <input type="checkbox"/> Recalled <input type="checkbox"/> Set aside <input type="checkbox"/> Remain out <input type="checkbox"/> Bail exonerated <input type="checkbox"/> Bail forfeiture set aside & reinstated upon payment of fee \$
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P L E A S / W A I V E R S	C O N D I T I O N S	C O N T I N U A N C E
<input type="checkbox"/> Written plea filed <input type="checkbox"/> Pleads Guilty. Ct. # <input type="checkbox"/> Pleads no contest, Found Guilty Ct # <input type="checkbox"/> Pleads Not guilty / Found Not guilty by reason of insanity <input type="checkbox"/> Admits / denies: priors / enhancements / strikes <input type="checkbox"/> Rights given / waived <input type="checkbox"/> App. Rights given / waived <input type="checkbox"/> Per PC1192.5 <input type="checkbox"/> Time for Misd Trial / Sent waived / not waived <input type="checkbox"/> Time for Fel PX / Trial 10: 60 days waived / not waived <input type="checkbox"/> Time for PV - 15 / 45 days waived / not waived <input checked="" type="checkbox"/> Other <u>Court Renewal Peoples opposition, Defenses Reply, Peoples further app</u> <u>Parties urge in Reports, Court States findings as reported</u>	<input type="checkbox"/> Obey all laws <input type="checkbox"/> Use true name / DOB <input type="checkbox"/> Do Not use any alcohol / drugs w/o Rx <input type="checkbox"/> Attend AA / NA meetings per week and present proof at each court appearance <input type="checkbox"/> Submit to search/testing for <input type="checkbox"/> Re-ref / Reinstate L1 / L2 / PCDDP <input type="checkbox"/> Not drive unless properly licensed and insured <input type="checkbox"/> Destroy / Return Weapon <input type="checkbox"/> SCRAM / GPS <input type="checkbox"/> Ordered <input type="checkbox"/> Removed	TRIAL <input type="checkbox"/> RC/FRC <input type="checkbox"/> PX: <input type="checkbox"/> PTC/SET <input type="checkbox"/> FUTURE DATES CONFIRMED <input type="checkbox"/> Time waived to +10 / 60 days <input type="checkbox"/> Vacate date of <input type="checkbox"/> Def must / need not appear <input type="checkbox"/> Trailing Last Day

M O T I O N S / O R D E R S	P R O B A T I O N / D I V / P A R O L E	P R O C E E D I N G S
<input type="checkbox"/> Defendant held to answer at PX hearing <input checked="" type="checkbox"/> People / Def Motion to / for / cont <u>11/2/24</u> <input checked="" type="checkbox"/> People / Def objected <input type="checkbox"/> No action taken <input type="checkbox"/> Granted <input checked="" type="checkbox"/> Denied <input checked="" type="checkbox"/> Submitted <input type="checkbox"/> info / indictment/complaint amended on its face to add Ct # a violation of section Fel / Misd <input type="checkbox"/> Pursuant to 23103.5 CVC <input type="checkbox"/> Substitute misdemeanor for felony where it appears in Ct # <input type="checkbox"/> Per Court / DA dismiss Ct # <input type="checkbox"/> Per Court / DA dismiss Enhancements / Strikes Reasons <input type="checkbox"/> Crim. protective order issued/modified/served on <input type="checkbox"/> Deft. <input type="checkbox"/> Victim <input type="checkbox"/> DA <input type="checkbox"/> Stay away from <u>+ Disc admitted as part of record plus Exhibit 1, 2 objects Court upholds conviction</u>	<input type="checkbox"/> Court / Formal Prob yrs mos <input type="checkbox"/> No Probation <input type="checkbox"/> Adult Pre-Trial / Pre Plea / Diversion <input type="checkbox"/> Prob / Div / Parole / PRCS Reinst'd / Ext. / Modif to <input type="checkbox"/> Def given / waived rights to Revoc Hg: admits / denies allegation <input type="checkbox"/> Violation of Prob / Div / Parole: PRCS <input type="checkbox"/> Prob / Div / Parole: PRCS revoked <input type="checkbox"/> In re law notice given <input type="checkbox"/> Prob / Div / PRCS Terminated: Successfully / Unsuccessfully / Denied <input type="checkbox"/> Crim. proceedings susp / reinstated / dismiss <input type="checkbox"/> Standard terms & cond. of Probation given <input type="checkbox"/> PC 296 sample ordered / verified <input type="checkbox"/> Parole violation(s) sustained / not sustained	<input type="checkbox"/> Court declares a doubt / <input type="checkbox"/> Crim proc susp <input type="checkbox"/> Court appoints Dr Purs PC288.1 / PC136B <input type="checkbox"/> Counsel submit on Dr / CONREP Report dated marked as EXH <input type="checkbox"/> Court finds def competent / incompetent to stand trial <input type="checkbox"/> Court refers def to CONREP / Adult MH <input type="checkbox"/> Def committed to Max term of commitment Local custody credits <input type="checkbox"/> Mads voluntary / involuntary / no consent <input type="checkbox"/> Criminal proceedings reinstated

F I N E S	C O M M I T M E N T S	S T A T E P R I S O N
<input type="checkbox"/> RFS (PC1202.4) <input type="checkbox"/> Fine \$ <input type="checkbox"/> Prob Viol. Fine \$ <input type="checkbox"/> PVRF/PRCS \$ (PC1202.44) suspended / imposed (PC1202.44) <input type="checkbox"/> Victim restitution \$ <input type="checkbox"/> Victim restitution TBD / Not ordered <input type="checkbox"/> VCB \$ <input type="checkbox"/> \$41 Theft fee <input type="checkbox"/> Lab Analysis fee \$ <input type="checkbox"/> COA \$ CCA \$ <input type="checkbox"/> Pay bal. of fine/ in lieu of fine/ Susp. after fine <input type="checkbox"/> hours Volunteer work by Fee \$ <input type="checkbox"/> Balance of fines / fees / rest. to remain as ordered <input type="checkbox"/> Make payments to Lineberger <input type="checkbox"/> Other	<input type="checkbox"/> County jail days / mos / yrs <input type="checkbox"/> days / mos / yrs credit <input type="checkbox"/> days / mos / yrs suspended <input type="checkbox"/> Sentence to commence <input type="checkbox"/> Serve consecutive / concurrent with: <input type="checkbox"/> Jail <input type="checkbox"/> SWAP <input type="checkbox"/> No EHD <input type="checkbox"/> EHD <input type="checkbox"/> Release from custody to program <input type="checkbox"/> Day-for-day credit for successful completion of approved day / mo / yr residential treatment program <input type="checkbox"/> PC 290 registration <input type="checkbox"/> SARATSO <input type="checkbox"/> Sent recall pers. to 1170 18 / Prop 47 dept resent <input type="checkbox"/> See attached additional orders	State Prison yrs mos County Jail yrs mos days Mand. Sup. yrs mos days CT L M U yrs mos (cc) (cs) CT L M U yrs mos (cc) (cs) CT L M U yrs mos (cc) (cs) CT L M U yrs mos (cc) (cs) ENH yrs mos ENH yrs mos ACTUAL CTS CONDUCT CTS <input type="checkbox"/> 1/3 time credits <input type="checkbox"/> Parole / PRCS advisement given <input type="checkbox"/> Paper commitment

☐ REMANDED ☐ Court Courtesy ☐ Ordered released ☐ On OR ☐ Promise to Appear ☐ Cont'd on bond/cash bail posted ☐ Phone calls
Bail set in the amount of \$ ☐ State Prison Commitment ☒ Committed to custody until sentence is satisfied in full

TO THE SHERIFF: I certify that this is a true copy of the Entry of Judgment or Order and is your authority for the operation thereof

DATED: 11/12/2024

JUDGE OF THE SUPERIOR COURT

NATHAN MEDINA
CTF North A Lassen B244
P.O. Box 705
Soledad, California 93960

IN AND FOR THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF CONTRA COSTA

THE PEOPLE OF THE STATE OF CALIFORNIA,)
Plaintiff,)

v.)

NATHAN MEDINA,)
Defendant.)

CASE NO. 5-080656-2

NOTICE OF MOTION AND
MOTION FOR DISCOVERY
IN ANTICIPATION OF
FILING HABEAS CORPUS
PURSUANT TO PENAL
CODE 1054.9; POINTS AND
AUTHORITIES;
DECLARATION

TIME: 09:00 A.M.
DATE: January 6, 2025

NOTICE IS HEREBY GIVEN that on January 6, 2025 at 09:00 A.M. or as soon thereafter as the matter may be heard in the above-entitled Court, located at 1020 Ward St., Contra Costa, the Defendant will move the Court for an order compelling the People to disclose to Defendant in anticipation of the filing of a petition for a writ of habeas corpus. This Motion is authorized by Penal Code section 1054.9.

This motion is based upon the attached memorandum of points and authorities, the declaration of Nathan Medina, and on such oral and documentary evidence as may be presented to the Court at the hearing on the motion

Executed this 9-25-24

Signature 

Nathan Medina

NATHAN MEDINA
CTF North A Lassen B244
P.O. Box 705
Soledad, California 93960

IN AND FOR THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF CONTRA COSTA

THE PEOPLE OF THE STATE OF CALIFORNIA,)
Plaintiff,)

v.)

NATHAN MEDINA,)
Defendant.)

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Executed this 9-25-24

Signature _____

Nathan Medina

MEMORANDUM OF POINT AND AUTHORITIES

Penal Code § 1054.9 grants persons convicted of a crime and sentenced to death, to life without possibility of parole, or to prison for 15 or more years for violent or serious felony, the right to obtain discovery from the People to help those persons file a "postconviction writ of habeas corpus or motion to vacate a judgment". Pen. Code § 1054.9; see also In re Steel, 32 Cal.4th 682, 691 (2004). (authorizing filing of a motion under section 1054.9 by person "preparing to file" such a writ or motion). Section 1054.9 authorizes three categories of discovery. Defendant seeks the following categories:

(1) All material in defense counsel's trial file.

Under Section 1054.9, a criminal defendant is entitled to a copy of the "materials that the defense once possessed but has since lost." In re Steel, 32 Cal.4th at 693. To obtain a reconstructed copy of defense counsel's file, the moving party only has to show that (1) trial counsel's files are incomplete; (2) he or she made "good faith efforts" to obtain the missing materials from trial counsel; and (3) he or she did not succeed in these efforts. Id. at 693-94; Hurd v. Super. Ct., 144 Cal.App.4th 1109, 1167 (2006); Barnett v. Super. Ct., 50 Cal.4th 890, 898 (2010); Kennedy v. Super. Ct., 145 Cal.App.4th 359, 366 (2006). (burden rests with defendant).

Defendant has made this showing. (see Exhibit A, Affidavit of Nathan Medina)

Because Defendant has made this showing, he is entitled to have the People produce everything that was in the defense's discovery file at the time of trial. Catlin v. Super. Ct., 51 Cal.4th 300, 305 (2011). ("The language could not be plainer: If that showing is made, the defendant is entitled to discovery.") Defendant is not required to identify the documents sought or demonstrate that the prosecution still possesses them. Barnet, 50 Cal.4th at 898.

(2) All materials to which Defendant would have been entitled

Penal Code § 1054.9 also grants a criminal defendant the right to have the People produce all materials "to which the defendant was actually entitled at the time of trial, but did not receive." In re Steel, 32 Cal.4th at 695; Pen. Code § 1054.9(b). To obtain such materials – which go beyond "file reconstruction" – the defendant must show:

(1) That he attempted to obtain the materials from trial counsel and has failed.

Pen. Code § 1054.9(a); In re Steel, 32 Cal.4th at 697;

Procedurally, the defense must show that it informally requested the sought after evidence from the prosecution and wait-15 days for the Prosecution to comply. Hall v. Superior Court, 133 Cal.App.4th 908, 918 (2005).

2. That he was entitled, "at time of trial," to materials he seeks in the motion. Pen. Code § 1054.9(b). Such materials include: (a) materials "the prosecution did provide at time of trial but have since become lost to the defendant," In re Steel, 32 Cal.4th at 697; (b) materials "the prosecution should have provided at the time of trial because" they came within (i) "the scope of a discovery order the trial court actually issued at that time," Id. at 697; "the prosecution had no obligation to provide at the time of trial absent specific defense request, but to which the defendant would have been entitled at time of trial had the defendant specifically requested them." Id. at 697; (ii) "a statutory duty to provide discovery," Id. such as the Criminal Discovery Act; or (iii) the People's "constitutional duty to disclose exculpatory evidence," Id. whether or not it is material, Barnett, 50 Cal.4th at 900-01; (c) materials "the prosecution should have provided at the time of trial because the defense specifically requested them at that time and was entitled to receive them," In re Steele, 32 Cal. 4th at 697; and (d) materials "the prosecution had no obligation to provide at the time of trial absent specific defense request, but to which the defendant would have been entitled at time of trial had the

defendant specifically requested them," I'd. at 697. This includes materials that could have been requested in a so called Pitches motion for law enforcement records, if they are material to the habeas proceeding. Hurd v. Super. Ct., 144 Cal.App.4th at 1107-08, 1111 (2006);

(3) The materials requested exist;

(4) The prosecution and law enforcement authorities involved in the case currently posses those materials.

Because Pen. Code § 1054.9 provides only for specific discovery and not the proverbial fishing expedition for anything that might exist, defendant seeking discovery beyond recovering what the prosecution had provided to the defense before trial must show reasonable basis to believe that specific requested materials actually exist.

Defendant moves the court for an order to be provided specifically for the following discovery material:

1. Mendell 911 call (concealed no peoples exhibit #)
2. Rhoads 911 call (peoples exhibit #2)
3. Rhoads recorded interview (peoples exhibit #15)
4. Mendell recorded interview (peoples exhibit #16)
5. Longfellow recorded interview (no audio) (peoples exhibit #5)
6. Rhoads' phone records from 3-20-08 of phone number 911 call was made from
7. Mendell's phone records from 3-20-08 of phone number 911 call was made from
8. Gina Holland phone records from 3-20-08
9. All Police reports for Rhoads house on, and prior to 3-20-08
10. Confidentiality agreement between Trial Counsel and district attorney's office regarding 911 calls and witness interviews (If there is no agreement, the DA must state in writing that no such agreement exists to counter Counsel's claim that the DA made him sign a confidentiality agreement before they would turn the recordings over to him)
11. Copy of Motion to Quash and Traverse search and arrest warrant,
12. Copy of minute order and audio recording from Motion to Quash and Traverse hearing held in Richmond court, by Judge Laurel Brady.
13. E-mail correspondences between trial counsel, district attorney's office, Steven Moawad, Private Investigator – Mark Harrison, Walnut Creek Police department, any and all expert witnesses
14. the Affidavit in Support of Detention
15. the Affidavit in Support of Search Warrant and Arrest Warrant
16. the Affidavit in Support of Complaint
17. the Affidavit in Support of the Information

- 18. all digital photos
- 19. all CD's
- 20. all DVD's

Defendant has made the "good faith efforts" to obtain materials from counsel, and has failed. (See attached exhibits)

The "good faith efforts" identified above and attached satisfied the defendant's burden under Pen. Code § 1054.9. see also *In re Steel*, 32 Cal.4th at 693-694; Hurd v. Super. Ct., 144 Cal.App.4th 1100, 1107 (2006); Barnett v. Super Ct. 50 Cal.4th 890, 898 (2010); Kennedy v. Super. Ct. 145 Cal.App. 359, 366.

Defendant moves the court for an order of the Court, that defendant be provided the specific discovery requested.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: 9-25-24

By: 
Nathan Medina

Enclosures: Informal Request
Proof of Service

PROOF OF SERVICE BY AFFIDAVIT

Fed. R. Civ. P. 5; 28 U.S.C. § 1746; C.C.P. § 2015.5)

I, Nathan Medina, declare:

I am over 18 years of age and I am domiciled in the Central Training Facility, at California State Prison, Soledad, California [93960]. I am familiar with the business practices within the CDCR for collecting, inspecting, sealing and processing legal documents(s) and accompanying attachment(s) for mailing using the United States Postal Service and I have complied with those requirements in the execution of this Proof of Service for this mailing.

On September 25, 2024, I served the attached:
Notice of Motion and Motion for Discovery in Anticipation of Filing Habeas Corpus
on the parties herein by placing true and correct copies thereof, enclosed in an unsealed envelope, with the postage thereon fully paid, in the United States Postal Mail Box so provided at the above-named correctional institution in which I am presently domiciled. The envelope was addressed as follows:

A.F. Bray Courthouse
1020 Ward Street
Martinez, California 94553

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on this 25th day of September, 2024 at Soledad, California.

Signature: _____

Nathan Medina

Prison Mailbox Rule

Under the "Prison Mailbox Rule" a prisoner's legal document is deemed filed, for statute of limitation purposes, when he hands it over to prison authorities for mailing. [Houston v. Lack (1998) 487 U.S. 266, 274; Huizar v. Carey (9th Cir. 2001) 273 F.3d 1220, 1222.] The mailbox rule applies to prisoners filing in both federal and state courts. [Huizar, 273 F.3d at p. 1223.]

PROOF OF SERVICE
BY PERSON IN STATE CUSTODY

(Fed. R. Civ. P. 5; 28 U.S.C. § 1746)

I, Nathan Medina, declare:

I am over 18 years of age and a party to this action. I am domiciled in Central Training Facility, at California State Prison, in the county of Monterey. The address at this facility is P.O. Box 705, Soledad, California [93960].

On 12-5-2024, I served the attached:

Notice of Motion and Motion for Discovery 1054.9

On the parties herein by placing true and correct copies thereof, enclosed in an unsealed envelope, with the postage thereon fully paid, in the United States Postal Mail Box so provided at the above-named correctional institution in which I am presently domiciled. The envelope was addressed as follows:

A. F Bray Courthouse
1020 Ward street
Martinez, Ca 94553

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 5 day of December 2024

Signature: _____

Prison Mailbox Rule

Under the "Prison Mailbox Rule" a prisoner's legal document is deemed filed, for statute of limitation purposes, when he hands it over to prison authorities for mailing [Houston v. Luck (1998) 487 U.S. 266, 274; Huizar v. Carey (9th Cir. 2001) 273 F.3d 1220, 1222.] The mailbox rule applies to prisoners filing in both federal and state courts. [Huizar, 273 F.3d at p. 1223.] Silverbrand v. County of Los Angeles (2009) 44 Cal. 4th 106, 119-130