

JUN 25 2008

FILED
 JUL 1 2008
 CLERK, U.S. DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA
 BY [Signature] DEPUTY

United States District Court
 Southern District of California

KIMBERLY LORRAINE GRIGGS Petitioner v. JAMES E. TILTON, Secretary Respondent.	08cv0477-JAH-NLS) TRAVERSE TO ANSWER TO PETITION FOR WRIT OF HABEAS CORPUS
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KIMBERLY GRIGGS, PETITIONER, MAKES THIS TRAVERSE TO RESPONDENT'S ANSWER TO MY PETITION FOR WRIT OF HABEAS CORPUS AND ALLEGES AS FOLLOWS:

THAT RESPONDENT'S ANSWER IS UNTRUE BECAUSE IT ALLEGES THAT PETITIONER'S CUSTODY IS LAWFUL AND PROPER.

PARAGRAPH NUMBER II OF RESPONDENT'S ANSWER IS UNTRUE BECAUSE THE SUPREME COURT ALTHOUGH IT DENIED MY PETITION FOR REVIEW. IT DID SO WITHOUT PREJUDICE TO ANY RELIEF I COULD SEEK ONCE CUNNINGHAM V. CALIFORNIA WAS DECIDED. THIS WAS GRANTED OCT 16, 2006. CUNNINGHAM V. CALIFORNIA WASN'T DECIDED UNTIL

JANUARY 22nd, 2007. MY WRIT OF HABEAS CORPUS WAS DENIED AT THE STATE LEVEL IN CLEAR VIOLATION OF THE SUPREME COURT ORDER WHICH WAS FINALIZED OCT 20th, 2006. STATING WITHOUT PREJUDICE.

THE STATE CONTENDED THAT I WAS ASKING FOR THE CUNNINGHAM V. CALIFORNIA RETRO-ACTIVE SO THEY DENIED MY WRIT OF HABEAS, BASED ON THAT ALONE. I CONTEND THAT OCT. 20th, 2006. IS NOT RETRO ACTIVE TO JAN 22nd, 2007. IN FACT IT IS BEFORE. SO BASED UPON THIS KNOWLEDGE MY WRIT OF HABEAS ~~WAS DENIED~~ SUBMITTED AT THE STATE LEVEL SHOULD HAVE BEEN GRANTED. WITHOUT PREJUDICE AS PUT FORTH IN SUPREME COURT ORDER, IS ALL INCLUSIVE. (PLACE, DATE AND OR TIME.) ORDER WAS NOT SET FORTH AS, WITHOUT PREJUDICE WITH EXCEPTION.

PARAGRAPH NUMBER III OF RESPONDENTS ANSWER IS NOT TRUE BECAUSE ANY AGGRAVATING FACTORS USED TO INCREASE MY SENTENCE SHOULD HAVE BEEN FOUND BY A JURY BEYOND A REASONABLE DOUBT. THEREFORE PETITIONERS CLAIM IN GROUND ONE SHOULD NOT BE DENIED BECAUSE MY PRIOR CONVICTIONS WERE USED TO INCREASE MY SENTENCE ABOVE THE PRESUMPTIVE MIDDLE TERM. IN FACT, IT WOULD HAVE BEEN MY PRIOR CONVICTIONS THAT I WOULD HAVE PRESENTED TO THE JURY TO SHOW JUST CAUSE AS TO WHY MAX'S WOULD HAVE BEEN INTERESTED IN MY EXPERTISE

Paragraph VI. OF Respondent's ANSWER IS NOT TRUE BECAUSE THE RELEVANT FACTS USED TO INCREASE MY SENTENCE ABOVE THE PRESUMPTIVE MIDDLE TERM. WOULD HAVE BEEN RELEVANT IN SHOWING THE JURY HOW AND WHY I WAS SOUGHT OUT BY MACY'S. BY NOT ALLOWING ME TO PRESENT A DEFENSE TO AGGRAVATING FACTORS, VIOLATED MY CONSTITUTIONAL RIGHTS. THEREFORE MY CUSTODY IS IMPROPER, ILLEGAL AND UNJUST.

Petitioner incorporates by reference and resubmits HER Petition for writ of HABEAS corpus as if fully set forth HEREIN; and

Petitioner also incorporates by reference and memorandum of Points and Authorities and exhibits to HER Petition and THIS TRAVERSE.

JUNE 18th, 2008

Respectfully submitted
for and by
KIMBERLY L. GRIGGS PROPER

PROOF OF SERVICE

I hereby declare that I am over 18 years of age, a resident in the state of California and a party/not a party to the within cause of action. That on this date, I did cause a true and correct copy of the TRAVERSE to be served on the parties to the action by (check appropriate boxes):

depositing same in the U.S. Mail With first class postage prepaid and addressed as follows below:

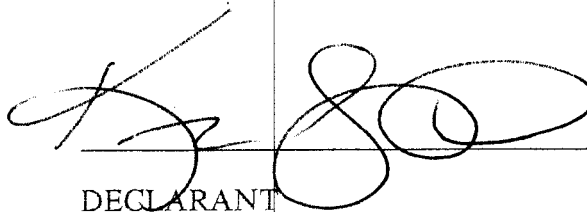
United States District Court
Southern District of California
OFFICE of THE CLERK
880 front STREET STE 4290
SAN DIEGO CA 92101-8900

DEPT of JUSTICE
OFFICE of ATTORNEY General
110 WEST A STREET STE 1100
SAN DIEGO CA 92101

VERIFICATION

I have read the above statements and do declare upon penalty of perjury that these statements are true and correct as based upon my information and belief.

Executed on this 20th day of JUNE, 2008
at Chonchilla, California, pursuant to provisions of code of Civil Procedures §§446 and 2015.5.



DECLARANT