

SUPREME COURT
FILED

JAN 15 2020

**IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA**

Jorge Navarrete Clerk

IN RE JACK WAYNE
FRIEND,

On Habeas Corpus.

No. S256914

Deputy

Related to:

First Appellate District,
Division Three, No. A155955

Alameda County Super. Ct.,
No. 81254 (Hon. Don Clay)

DEATH-PENALTY CASE

**MOTION TO TAKE JUDICIAL NOTICE
AND PROPOSED ORDER**

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RECEIVED

JAN 10 2020

CLERK SUPREME COURT

Pursuant to California Rules of Court, rule 8.520, subdivision (g), rule 8.54, and rule 8.252, subdivision (a), and Evidence Code sections 451, 452, and 453, Petitioner-Appellant Jack Wayne Friend moves the Court to take judicial notice of the following matters, submitted as Exhibits 1 through 5, which are relevant to his concurrently filed Opening Brief on the Merits.

1. Order Denying Habeas Petition for Writ of Habeas Corpus, *In re Jack Wayne Friend* (Alameda Cty. Super Ct. Oct. 24, 2019, No. 81254A)
2. Order, *In re Phillip L. Lucero* (Cal. Ct. App. Dec. 30, 2019, No. E074350)
3. Excerpts from the Official Voter Information Guide, General Election Nov. 8, 2016, available in full at <<https://vig.cdn.sos.ca.gov/2016/general/en/pdf/complet-e-vig.pdf>> (last accessed Jan. 7, 2020)
4. Excerpts from Black's Law Dictionary (11th ed. 2019)
5. Excerpts from The American Heritage Dictionary of the English Language (5th ed. 2016)

MEMORANDUM OF POINTS AND AUTHORITIES

This Court may take judicial notice of Exhibit 1, the Alameda County Superior Court order denying Friend's June 2018 petition for writ of habeas corpus, under Evidence Code section 452, subdivision (d), which provides that judicial notice may be taken of "[r]ecords of (1) any court of this state or (2) any court of record of the United States or of any state of the United States." Exhibit 2, an order from the Fourth District Court of

Appeal, is also appropriate for judicial notice under Evidence Code section 452, subdivision (d).

Exhibit 3, excerpts from the Voter Information Guide from the November 2016 general election, may be judicially noticed pursuant to Evidence Code section 452, subdivision (c), which provides that judicial notice may be taken of “[o]fficial acts of the legislative, executive, and judicial departments of the United States and of any state of the United States.” Courts of this state routinely take judicial notice of materials published by state agencies, and this Court took judicial notice of the material attached as Exhibit 3 in *Briggs v. Brown* (2017) 3 Cal.5th 808. Exhibit 3 may also be judicially noticed under Evidence Code section 452, subdivisions (g) and (h), which provide that judicial notice may be taken of matters that are not reasonably subject to dispute that are either of “common knowledge” or “are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.”

Finally, Exhibits 4 and 5, excerpts from two dictionaries, are appropriate for judicial notice under Evidence Code section 451, subdivision (e) (“the true signification of all English words and phrases of all legal expressions”). (*Sierra Club v. Superior Court* (2013) 57 Cal.4th 157, 171 [taking judicial notice of the American Heritage Dictionary].)

The submitted exhibits are relevant to adjudicating the instant case because they relate to the issues the Court is reviewing. Specifically, the Alameda Superior Court’s order denying Friend’s June 2018 petition is the subject of review in

this matter. Because the copy that was included in the Clerk's Transcript omits the even pages, Friend attaches the entire order as Exhibit 1. Friend relies on Exhibit 2, the order from the Fourth District Court of Appeal, to demonstrate how at least one court of appeal has applied the appellate scheme enacted by Proposition 66 and to support his arguments regarding the proper interpretation of that statute. He relies on the material in Exhibit 3 from the Voter Information Guide to support his arguments regarding the voters' intent in enacting Proposition 66. Finally, he relies on the dictionary definitions in Exhibits 4 and 5 to support textual arguments regarding the new statutes.

Apart from Exhibit 1, the superior court's order, these exhibits were not presented or made part of the record in the proceedings below. Exhibit 2 was filed in the Fourth District Court of Appeal on December 30, 2019. The other matters to be noticed do not relate to proceedings occurring after the order that is the subject of review.

Dated this 9th day of January, 2020.

Respectfully submitted,

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Lindsey Layer
Assistant Federal Public Defender

Stanley Molever
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IN THE CALIFORNIA SUPREME COURT

IN RE JACK WAYNE FRIEND,

On Habeas Corpus.

S256914

(First Appellate District
Division Three
No. A155955)

DEATH-PENALTY CASE

**PROPOSED ORDER GRANTING PETITIONER-
APPELLANT'S MOTION TO TAKE JUDICIAL NOTICE**

NO. S256914

**IN THE SUPREME COURT OF THE STATE OF
CALIFORNIA**

In re JACK WAYNE FRIEND on Habeas Corpus.

Appellant's "Motion to Take Judicial Notice," filed on
January __, 2020, is hereby granted.

Chief Justice

EXHIBIT 1

ENDORSED
FILED
ALAMEDA COUNTY

OCT 24 2018

CLERK OF THE SUPERIOR COURT
By KRISTI HERETH
DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

IN RE
JACK WAYNE FRIEND,
on Habeas Corpus.

No. 81254A
ORDER DENYING PETITION
FOR WRIT OF HABEAS CORPUS

The court having reviewed the petition for writ of habeas corpus (Petition) filed by JACK WAYNE FRIEND (Petitioner) on June 29, 2018; the informal response to the Petition, filed by the Alameda County District Attorney (Respondent) on September 5, 2018; and the informal reply, filed by Petitioner on October 16, 2018, NOW HEREBY ORDERS:

The Petition is DENIED for the reasons stated below.

PROCEDURAL BACKGROUND

In 1989, a jury convicted Petitioner of first degree murder and robbery. (Pen. Code, §§ 187, 189, 211.)¹ The jury also found true that Petitioner had inflicted great bodily injury in connection with the robbery and that he had personally used a knife in the commission of both crimes. (Pen. Code, §§ 12022.7, subd. (a), 12022, subd. (b).) The jury was unable to reach a verdict on the robbery-murder special-circumstance allegations. (Pen. Code, § 190.2, sub.d (a)(17)(i).) In 1992, after a retrial on the robbery-murder special-circumstance allegation, a new jury found it true, and after the penalty phase, the jury returned a verdict of death.

¹ The court takes judicial notice of the court file. (See Evid. Code, §452, subd. (d).)

The trial court denied Petitioner's motion for a new trial and modification of the death penalty, and sentenced him to death.

On automatic appeal, Petitioner's judgment was affirmed in full. (*People v. Friend* (2009) 47 Cal.4th 1.) In 2007, Petitioner filed a petition to the California Supreme Court for relief on habeas corpus, which was denied in 2015. (*Jack Wayne Friend, on Habeas Corpus*, Cal. Sup. Ct. No. S150208.)

In 2016, the Office of the Federal Public Defender for the District of Arizona was appointed to represent Petitioner for the duration of his federal habeas corpus proceedings, and filed an initial petition for writ of habeas corpus. (*Friend v. Davis* (N.D. Cal., No. 4:15-CV-03514-HSG).) In 2017, the District Court granted Petitioner's motion to stay federal proceedings to allow Petitioner to return to state court to exhaust claims that had not yet been raised in California state courts. In accordance with that order, the instant Petition was filed in this court on June 29, 2018. On July 10, 2018, this court granted Petitioner's motion for leave to file an overlength petition for habeas corpus and motion to file exhibits 17 and 18 under seal, which accompanied the Petition. On August 3, 2018, this court ordered informal briefing on the Petition.

DISCUSSION

Petitioner claims the following grounds for relief: (1) the prosecution's discriminatory exercise of peremptory challenges to strike prospective jurors on the basis of their race, gender, ethnicity or religion violated Petitioner's rights under the Fifth, Sixth, Eighth and Fourteenth Amendments; (2) Petitioner was denied his right to the effective assistance of counsel in violation of his rights under the Fifth, Sixth, Eighth, and Fourteenth Amendments; (3) the imposition of the death penalty on a person suffering organic brain damage violates the Eighth and Fourteenth Amendments to the United States Constitution; (4) Petitioner was denied due process when two California Supreme Court Justices failed to recuse themselves from his case; (5) the state's use at the guilt trial of Petitioner's statements to police violated his rights under the Fifth, Sixth, and Fourteenth

Amendments; and (6) Petitioner's Sixth Amendment right to the effective assistance of counsel was violated by his appellate counsel's failure to raise a meritorious claim on direct appeal.

In 2016, California voters approved Proposition 66, the Death Penalty Reform and Savings Act of 2016. (Gen. Elec. (Nov. 8, 2016) § 1.) The measure enacted a series of statutory reforms to California's death penalty system, including provisions to expedite review in capital appeals and habeas corpus proceedings. Section 1509 was added to the Penal Code, which provides, in part:

This section applies to any petition for writ of habeas corpus filed by a person in custody pursuant to a judgment of death. A writ of habeas corpus pursuant to this section is the exclusive procedure for collateral attack on a judgment of death. A petition filed in any court other than the court which imposed the sentence should be promptly transferred to that court unless good cause is shown for the petition to be heard by another court.

(Pen. Code, § 1509, subd. (a).)

Concerning successive petitions, this section provides, in pertinent part, "a successive petition [for writ of habeas corpus filed by a person in custody pursuant to a judgment of death] whenever filed shall be dismissed unless the court finds, by the preponderance of all available evidence, whether or not admissible at trial, that the defendant is actually innocent of the crime of which he or she was convicted or is ineligible for the sentence." (Pen. Code, § 1509, subd. (d).) This statute further provides, "'Ineligible for the sentence of death' means that circumstances exist placing that sentence outside the range of the sentencer's discretion. Claims of ineligibility include a claim that none of the special circumstances in subdivision (a) of Section 190.2 is true, a claim that the defendant was under the age of 18 at the time of the crime, or a claim that the defendant has an intellectual disability, as defined in Section 1376." (*Ibid.*)

In *Briggs v. Brown* (2017) 3 Cal.5th 808, the California Supreme Court upheld the validity of Proposition 66. Relevant to this Petition, the court found that the provision restricting successive petitions in subdivision (d) of Penal Code

section 1509 did not violate equal protection. (*Id.* at pp. 841-845.) The court in *Briggs* also found that restriction on successive petitions in subdivision (d) of Penal Code section 1509 did not violate the separation of powers doctrine. (*Id.* at pp. 845-848.)

Here, the instant Petition is a “successive petition” within the meaning of Penal Code section 1509, subdivision (d), as Petitioner has already been denied relief on habeas corpus by the California Supreme Court. In his informal reply, Petitioner argues that the term “successive petition” is not defined in the statute and is ambiguous, citing to *Briggs*’ observation that the use of the term in Penal Code section 1509.1, subdivision (a), another statute enacted by Proposition 66, is inconsistent with the court’s terminology. (*Id.* at p. 836, fn. 14.) Petitioner argues that the court did not directly address the use of the term in subdivision (d) of Penal Code section 1509, and that this statement by the court renders the term ambiguous. However, in that same footnote, the *Briggs* court states, “We have used ‘successive petition’ to refer to one raising claims that could have been presented in a previous petition.” (*Ibid.*, citing *In re Robbins* (1998) 18 Cal.4th 770, 788, fn. 9; *Clark, supra*, 5 Cal.4th at pp. 769-770.) Accordingly, this court does not find that the term “successive petition” as used in subdivision (d) of Penal Code section 1509 ambiguous, adopts the meaning of the term as provided in *Briggs*, and finds that the instant Petition is successive within the meaning of Penal Code section 1509, subdivision (d).

Contrary to Petitioner’s argument, it does appear that Penal Code section 1509, subdivision (d) eliminated the fundamental miscarriage of justice exemptions established in *In re Clark* (1993) 5 Cal.4th 750, which provided that successive petitions are permitted even “absent justification for the failure to present all known claims in a single, timely petition,” if the prisoner can establish that a “fundamental miscarriage of justice occurred.” (*Briggs, supra*, 3 Cal.5th at p. 842, quoting *Clark, supra*, 5 Cal.4th at p. 797.). As the court in *Briggs* noted, Penal Code section 1509, subdivision (d)’s requirement that successive petitions

be dismissed unless the court finds the prisoner actually innocent or ineligible for the death penalty, “is a substantial revision of the policy established in [*Clark*].” (*Briggs, supra*, 3 Cal.5th at p. 842.)

Therefore, given the decision in *Briggs* and the language of Penal Code section 1509, subdivision (d), this court finds that the instant Petition is a successive petition within the meaning of the statute, thus this court is required to dismiss the Petition unless this court finds, by the preponderance of all available evidence, whether or not admissible at trial, that Petitioner is actually innocent of the crime of which he or she was convicted or is ineligible for the sentence. Here, Claims One, Two, Four, Five, and Six contain no allegations that, if true, would demonstrate that Petitioner is actually innocent of the crime or is ineligible for the death sentence. Accordingly, this court dismisses those claims pursuant to Penal Code section 1509, subdivision (d).

As to Claim Three, it does initially appear that this claim alleges that Petitioner is ineligible for the death penalty due to an intellectual disability. Citing to *Atkins v. Virginia* (2002) 536 U.S. 304, Petitioner argues that the Eighth Amendment’s ban on excessive and cruel and unusual punishment prohibits the execution of intellectually disabled persons. However, it does not appear that Petitioner argues that he has an intellectual disability, as the Petition provides, “Rather, *as with intellectual disability*, this Court must recognize that the Eighth Amendment contains a categorical exemption for those who have organic brain impairment at the time of their offense. Because Mr. Friend has organic brain impairment, he lacks culpability *similar to those who are intellectually disabled*.” In *People v. Boyce* (2014) 59 Cal.4th 672, the California Supreme Court noted that it had previously rejected claims that a defendant’s low IQ, brain damage, and/or mental illness render his capital sentence grossly disproportionate to his crime. (*Id.* at p. 719; see *People v. Young* (2005) 34 Cal.4th 1149, 1231-1232 [death sentence upheld despite evidence that the defendant had an IQ of 75, lifelong learning disabilities, and a probable mental disorder]; *People v. Poggi* (1998) 45 Cal.3d

306, 348 [death sentence upheld despite evidence that defendant suffered organic brain damage, had a history of mental illness, was schizophrenic, and mentally ill on the day of the murder].) Examining *Atkins*, the court in *Boyce* stated, “there is no objective evidence that a national consensus has developed against executing persons with intellectual impairments *short of* intellectual disability or insanity. (*Boyce, supra*, 59 Cal.4th a p. 722, emphasis in original.)

Therefore, it does not appear that Petitioner claims that he is ineligible for the death penalty due to an intellectual disability, but rather, as the defendant in *Boyce* argued, “asks us to establish a new, ill-defined category of murderers who would receive a blanket exemption from capital punishment without regard to the individualized balance between aggravation and mitigation in a specific case.’ [citation omitted.] We decline the invitation.” (*Ibid.*) Additionally, Petitioner does not argue that he has an intellectual disability as defined in Penal Code section 1376. (Pen. Code, §§ 1509, subd. (d); 1376.) Accordingly, Claim Three is also dismissed pursuant to Penal Code section 1509, subdivision (d).

Finally, as the court in *Briggs* noted, a petitioner previously had no right to appeal from a superior court denial of habeas corpus relief, and instead obtained review by filing a habeas corpus petition in a higher court. (*Briggs, supra*, 3 Cal.5th at p. 836.) However, Penal Code section 1509.1 now provides that either party may appeal the decision of a superior court on an initial petition under Penal Code section 1509 to the court of appeal. (Pen. Code, § 1509.1, subd. (a).) Concerning successive petitions such as the instant Petition:

The petitioner may appeal the decision of the superior court denying relief on a successive petition only if the superior court or the court of appeal grants a certificate of appealability. A certificate of appealability may issue under this subdivision only if the petitioner has shown both a substantial claim for relief, which shall be indicated in the certificate, and a substantial claim that the requirements of subdivision (d) of Section 1509 have been met. An appeal under this subdivision shall be taken by filing a notice of appeal in the superior court within 30 days of the court's decision.

The superior court shall grant or deny a certificate of appealability concurrently with a decision denying relief on the petition.

(Pen. Code, § 1509.1, subd. (c).)

Accordingly, because Petitioner has failed to show a substantial claim that the requirements of Penal Code section 1509, subdivision (d) have been met, this court denies a certificate of appealability.

CONCLUSION

For the foregoing reasons, the Petition is DENIED. (Pen. Code, § 1509, subd. (d).) Furthermore, a certificate of appealability is also DENIED. (Pen. Code, § 1509.1, subd. (c).)

DATED: 10-24-2018

C. Don Clay

HON. C. DON CLAY
JUDGE OF THE SUPERIOR COURT

EXHIBIT 2

COURT OF APPEAL -- STATE OF CALIFORNIA
FOURTH DISTRICT
DIVISION TWO

ORDER

In re PHILLIP L. LUCERO
on Habeas Corpus

E074350

(San Bernardino County
Super.Ct.No. CHCJS1900003)

The Court of San Bernardino

THE COURT

Petitioner Phillip L. Lucero's request for a certificate of appealability, filed December 20, 2019, is GRANTED.

On November 22, 2019, the superior court denied Lucero's petition for writ of habeas corpus on the grounds it is successive and fails to make a substantial claim for relief. (Pen. Code, § 1509, subd. (d).) The trial court also denied Lucero a certificate of appealability. (Pen. Code, § 1509.1, subd. (c).) Lucero seeks to appeal the order denying him relief, and he requests a certificate of appealability from this court.

Petitioner has satisfied the twin requirements for a certificate of appealability under Penal Code section 1509.1, subdivision (c). First, he has shown a non-frivolous, "substantial claim" for relief under Penal Code section 1473, subdivisions (b)(1) and (e)(1), that the People admitted at his penalty retrial flawed or false evidence about post-traumatic stress disorder (PTSD) that has since been discredited and undermined. (Pen.

Code, § 1509.1, subd. (c); see *Welch v. United States* (2016) 136 S.Ct. 1257, 1263-1264 [federal standard for certificate of appealability]; cf. *People v. Mendez* (1999) 19 Cal.4th 1084, 1095 [certificate of probable cause under Pen. Code, § 1237.5, subd. (a) designed to screen out “wholly frivolous” appeals].) And last, this court has made a **preliminary** determination that Lucero’s current petition is not successive because he could not have raised his claim about flawed or false evidence in his 2002 petition. (Pen. Code, § 1509.1, subd. (c); see *In re Richards* (2016) 63 Cal.4th 291, 294, fn. 2 [claim of false evidence made after 2014 amendments to Pen. Code, § 1473 was “not subject to the procedural bar of successiveness”].) Therefore, he is not required to meet the additional requirements of Penal Code section 1509, subdivision (d), that apply to successive petitions, and he may appeal the denial of his petition under Penal Code section 1509.1, subdivision (a).

However, because we are only making a **preliminary** determination that the petition is not successive, and the question of how to define a successive petition for purposes of Penal Code section 1509, subdivision (d), is pending before the Supreme Court (*In re Friend* (Sept. 11, 2019, S256914) 2019 Cal. Lexis 6804), we will issue a certificate of appealability to preserve our jurisdiction to determine that issue.

This order is hereby DEEMED to be the CERTIFICATE OF APPEALABILITY.
The certificate is limited to the following issues:

- (1) Is Lucero’s petition filed on May 29, 2019, successive for purposes of Penal Code section 1509, subdivision (d)?

- (2) Did the People admit flawed or false expert testimony about the validity of PTSD at Lucero's 1989 penalty retrial (Pen. Code, § 1473, subds. (b)(1), (e)(1))?

McKINSTER
Acting P. J.

CODRINGTON
J.

RAPHAEL
J.

MAILING LIST FOR CASE: E074350
The People v. Phillip Lucero

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EXHIBIT 3

California General Election Tuesday November 8, 2016

Polls Are Open From 7:00 a.m. to 8:00 p.m. on Election Day!

★ ★ ★ ★ ★ OFFICIAL VOTER INFORMATION GUIDE ★ ★ ★ ★ ★



Certificate of Correctness

I, Alex Padilla, Secretary of State of the State of California, do hereby certify that the measures included herein will be submitted to the electors of the State of California at the General Election to be held throughout the State on November 8, 2016, and that this guide has been correctly prepared in accordance with the law. Witness my hand and the Great Seal of the State in Sacramento, California, this 15th day of August, 2016.

Alex Padilla, Secretary of State

VOTER BILL OF RIGHTS

YOU HAVE THE FOLLOWING RIGHTS:

1 **The right to vote if you are a registered voter.** You are eligible to vote if you are:

- a U.S. citizen living in California
- at least 18 years old
- registered where you currently live
- not in prison or on parole for a felony

2 **The right to vote if you are a registered voter even if your name is not on the list.** You will vote using a provisional ballot. Your vote will be counted if elections officials determine that you are eligible to vote.

3 **The right to vote if you are still in line when the polls close.**

4 **The right to cast a secret ballot** without anyone bothering you or telling you how to vote.

5 **The right to get a new ballot if you have made a mistake,** if you have not already cast your ballot. You can:

Ask an elections official at a polling place for a new ballot; or

Exchange your vote-by-mail ballot for a new one at an elections office, or at your polling place; or

Vote using a provisional ballot, if you do not have your original vote-by-mail ballot.

6 **The right to get help casting your ballot** from anyone you choose, except from your employer or union representative.

7 **The right to drop off your completed vote-by-mail ballot at any polling place** in the county where you are registered to vote.

8 **The right to get election materials in a language other than English** if enough people in your voting precinct speak that language.

9 **The right to ask questions to elections officials about election procedures** and watch the election process. If the person you ask cannot answer your questions, they must send you to the right person for an answer. If you are disruptive, they can stop answering you.

10 **The right to report any illegal or fraudulent election activity** to an elections official or the Secretary of State's office.

🌐 On the web at www.sos.ca.gov

☎ By phone at **(800) 345-VOTE (8683)**

✉ By email at elections@sos.ca.gov

**IF YOU BELIEVE YOU HAVE BEEN DENIED ANY OF THESE RIGHTS, CALL THE SECRETARY OF STATE'S
CONFIDENTIAL TOLL-FREE VOTER HOTLINE AT (800) 345-VOTE (8683).**

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Assistance for Voters with Disabilities

State and federal laws require polling places to be physically accessible to voters with disabilities. County elections officials inspect each site and often make temporary modifications for Election Day. Every person who works in a polling place is trained in election laws and voter rights, including the need to make reasonable modifications of policies and procedures to ensure equal access.

State and federal laws require that all voters be able to cast their ballots privately and independently. Each polling place must have at least one voting machine that allows all voters, including those who are blind or visually impaired, to cast a ballot without assistance. The voting machine permits voters to verify their vote choices and, if there is an error, allows voters to correct those choices before submitting their ballot.

Check your sample ballot



Your county sample ballot booklet will:

- Describe how persons with disabilities can vote privately and independently
- Display a wheelchair symbol if your polling place is accessible to voters with disabilities

At the polling place

If you need help marking your ballot, you may choose up to two people to help you. This person cannot be:

- Your employer or anyone who works for your employer
- Your labor union leader or anyone who works for your labor union

Curbside voting allows you to park as close as possible to the voting area. Elections officials will bring you a roster to sign, a ballot, and any other voting materials you may need, whether you are actually at a curb or in a car.

Contact your county elections office to see if curbside voting is available at your polling place.

Voter Registration

If you have already registered to vote, you do not need to reregister **unless** you change your name, home address, mailing address or if you want to change or select a political party.

You can register to vote online at RegisterToVote.ca.gov. Or call the Secretary of State's free Voter Hotline at (800) 345-VOTE (8683) to get a form mailed to you.

Voter registration forms can be found at most post offices, libraries, city and county government offices, county elections offices, and the California Secretary of State's Office.

Voter Registration Privacy Information

Safe at Home Confidential Voter Registration Program: Certain voters facing life-threatening (i.e. domestic violence, stalking victims) situations may qualify for confidential voter status. For more information, contact the Secretary of State's Safe at Home program toll-free at (877) 322-5227 or visit <http://www.sos.ca.gov/registries/safe-home/>.

Voter Information Privacy: Information on your voter registration affidavit will be used by elections officials to send you official information on the voting process, such as the location of your polling place and the issues and candidates that will appear on the ballot. Commercial use of voter registration information is prohibited by law and is a misdemeanor. Voter information may be provided to a candidate for office, a ballot measure committee, or other person for election, scholarly, journalistic, political, or governmental purposes, as determined by the Secretary of State. Driver license and social security numbers, or your signature as shown on your voter registration card, cannot be released for these purposes. If you have any questions about the use of voter information or wish to report suspected misuse of such information, please call the Secretary of State's Voter Hotline at (800) 345-VOTE (8683).

Ways to Vote



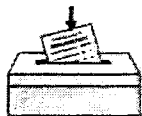
Vote by Mail

- Request a vote-by-mail ballot by **November 1**.
- Return by mail—must be postmarked on or before **November 8** and received by your county elections office no later than **November 14**.
- Return in person—to your county elections office or any polling place in your county before 8:00 p.m. on **November 8**.



Vote Early in Person

Some counties offer early voting at a few locations before Election Day. Contact your county elections office to see if they offer early voting. County contact information can be found at: <http://www.sos.ca.gov/elections/voting-resources/county-elections-offices/>.



Vote at the Polls on Election Day

- Polls are open on Election Day: **November 8 from 7:00 a.m. to 8:00 p.m.**
- The location of your polling place is printed on the back page of the sample ballot booklet your county elections official mailed to you. You can also find your polling place:
 - ☎ By calling (800) 345-VOTE (8683)
 - 💻 Online at www.sos.ca.gov/elections/polling-place
 - 📱 By texting *Vote* to GOVOTE (468683)

Provisional Voting

If your name is not on the voter list at your polling place, you have the right to vote a provisional ballot.

What Is a Provisional Ballot?

A provisional ballot is a regular ballot that is placed in a special envelope prior to being put in the ballot box.

Who Casts a Provisional Ballot?

Provisional ballots are ballots cast by voters who:

- Believe they are registered to vote even though their names are not on the official voter registration list at the polling place.
- Vote by mail but did not receive their ballot or do not have their ballot with them, and instead want to vote at a polling place.

Will My Provisional Ballot Be Counted?

Your provisional ballot will be counted after elections officials have confirmed that you are registered to vote in that county and you did not already vote in that election.

You may vote a provisional ballot at any polling place in the county in which you are registered to vote, however, only the elections contests you are eligible to vote for will be counted.

How Can You Check the Status of Your Provisional Ballot?

Every voter who casts a provisional ballot has the right to find out from their county elections official if the ballot was counted and, if not, the reason why it was not counted.



Visit <http://www.sos.ca.gov/elections/ballot-status/> for a list of county contacts and information on how to check the status of your provisional ballot.



Secretary of State

Dear Fellow Californians,

There is no greater right than the right to vote. Through voting, you help select your local, state, and national leaders, and ensure that your voice is heard. The Presidential General Election is fast approaching. I encourage you to participate in your most fundamental right as a citizen of the United States of America.

This Voter Guide can help you make informed decisions. It includes impartial analysis, arguments in favor and against the many ballot measures, declarations of the candidates, the Voter Bill of Rights, and other important information.

All of the information is presented here as a reference for you. This guide is also available online on the California Secretary of State website: www.voterguide.sos.ca.gov.

Please take the time to read the information in this guide carefully as we approach Election Day. If you would like to know who is financing each of the campaigns, you can search campaign finance information at: <http://powersearch.sos.ca.gov/>.

If you have any questions about how to vote, or how to register to vote, you can contact the office of the Secretary of State by calling toll-free 1-800-345-VOTE (8683). To obtain the contact information of your local county elections officials, you can visit the Secretary of State website at: www.sos.ca.gov/county-elections-offices.

Thank you for your commitment to the future of both our state and nation. The Presidential General Election is Tuesday, November 8. Your vote is important. Remember that your vote is your voice. Be heard. VOTE!

California General Election Tuesday November 8, 2016

Polls Are Open From 7:00 a.m. to 8:00 p.m. on Election Day!



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This quick reference guide contains summary and contact information for each state proposition appearing on the November 8, 2016, ballot.



- Polls are open from 7:00 a.m. to 8:00 p.m. on Election Day.
- Instructions on how to vote can be obtained from a poll worker or by reading your sample ballot booklet.
- New voters may be asked to provide identification or other documentation according to federal law. You have the right to cast a provisional ballot, even if you do not provide the documentation.
- Only eligible voters can vote.
- It is against the law to tamper with voting equipment.