

**SUPREME COURT MINUTES  
WEDNESDAY, MARCH 25, 2020  
SAN FRANCISCO, CALIFORNIA**

**S260063**      C077558 Third Appellate District      **PEOPLE v. CARNEY  
(JAMES LEO)**

Petition for review granted; issues limited

The petitions for review filed by Lonnie and Louis Mitchell are granted. The issues to be briefed and argued are limited to the following: Does the “substantial concurrent causation” theory of liability of *People v. Sanchez* (2001) 26 Cal.4th 834 permit a conviction for first degree murder if the defendants did not fire the shot that killed the victim? What impact, if any, do *People v Chiu* (2014) 59 Cal.4th 155 and Senate Bill No. 1437 (Stats. 2018, ch. 1015, § 1, subd. (f)) have on the rule of *Sanchez*?

The petition for review filed by James Carney is denied.

Votes: Cantil-Sakauye, C. J., Chin, Corrigan, Liu, Cuéllar, Kruger, and Groban, JJ.

**S260270**      E070926 Fourth Appellate District, Div. 2      **PEOPLE v. VIVAR (ROBERT  
LANDEROS)**

Petition for review granted

Votes: Cantil-Sakauye, C. J., Chin, Corrigan, Liu, Cuéllar, Kruger, and Groban, JJ.

**S260133**      B300885 Second Appellate District, Div. 4      **CHAMBERLAIN (LEE) ON  
H.C.**

Petition for review granted; briefing deferred

The petition for review is granted. Further action in this matter is deferred pending consideration and disposition of a related issue in *Milton on Habeas Corpus*, S259954 (see Cal. Rules of Court, rule 8.512(d)(2)), or pending further order of the court. Submission of additional briefing, pursuant to California Rules of Court, rule 8.520, is deferred pending further order of the court.

Votes: Cantil-Sakauye, C. J., Chin, Corrigan, Liu, Cuéllar, Kruger, and Groban, JJ.

**S260302**      C085960 Third Appellate District      **PEOPLE v. CASTANEDA  
(JOSEPH ANTHONY)**

Petition for review granted; briefing deferred

Defendants’ petition for review are granted. Further action in this matter is deferred pending consideration and disposition of a related issue in *People v. Lopez*, S258175 (see Cal. Rules of

Court, rule 8.51(d)(2), or pending further order of the court. Submission of additional briefing, pursuant to California Rules of Court, rule 8.520, is deferred pending further order of the court. Votes: Cantil-Sakauye, C. J., Chin, Corrigan, Liu, Cuéllar, Kruger, and Groban, JJ.

**S260629**      C087859 Third Appellate District      **PEOPLE v. WOODS  
(MONTRELL)**

Petition for review granted; briefing deferred

The petition for review is granted. Further action in this matter is deferred pending consideration and disposition of related issues in *People v. Tirado*, S257658 (see Cal. Rules of Court, rule 8.512(d)(2)), or pending further order of the court. Submission of additional briefing, pursuant to California Rules of Court, rule 8.520, is deferred pending further order of the court. Votes: Cantil-Sakauye, C. J., Chin, Corrigan, Liu, Cuéllar, Kruger, and Groban, JJ.

**S260662**      D074599 Fourth Appellate District, Div. 1      **PEOPLE v. BURKS (JOSEPH)**  
Petition for review granted; briefing deferred

The petition for review is granted. Further action in this matter is deferred pending consideration and disposition of a related issue in *People v. Frahs*, S252220 (see Cal. Rules of Court, rule 8.512(d)(2)), or pending further order of the court. Submission of additional briefing, pursuant to California Rules of Court, rule 8.520, is deferred pending further order of the court. Votes: Cantil-Sakauye, C. J., Chin, Corrigan, Liu, Cuéllar, Kruger, and Groban, JJ.

**S261174**      B294813 Second Appellate District, Div. 2      **PEOPLE v. S.C. (TONY B.)**  
Petition for review granted; briefing deferred

The petition for review is granted. Further action in this matter is deferred pending consideration and disposition in a related issue in *O.G. v. Superior Court*, S259011 (see Cal. Rules of Court, rule 8.512(d)(2)), or pending further order of the court. Submission of additional briefing, pursuant to California Rules of Court, rule 8.520, is deferred pending further order of the court. All further proceedings in *People v. Tony Brown*, Los Angeles County Superior Court No. MA066321, are hereby stayed pending further order of this court. Votes: Cantil-Sakauye, C. J., Chin, Corrigan, Liu, Cuéllar, Kruger, and Groban, JJ.

**S260198**      A152085 First Appellate District, Div. 3      **PEOPLE v. WEST (JOHN  
LEWIS)**

Petition for review granted; transferred to Court of Appeal, First Appellate District, Division Three

The petition for review as supplemented is granted, and this matter is transferred to the Court of

Appeal, First Appellate District, Division Three, with directions to vacate its decision and reconsider the cause in light of Senate Bill No. 136 (Stats. 2019, ch. 590). (See Cal. Rules of Court, rule 8.528(d).)

Votes: Cantil-Sakauye, C. J., Chin, Corrigan, Liu, Cuéllar, Kruger, and Groban, JJ.

**S258547****LIEBB ON REINSTATEMENT**

Petition for review denied

The request for judicial notice is granted.

Liu and Cuéllar, JJ., are of the opinion the petition should be granted.

**DISSENTING STATEMENT BY LIU, J.**

In 1983, when petitioner Stephen Liebb was 26 years old, he was convicted of first degree murder and assault with a deadly weapon. Liebb, who was a lawyer at the time, resigned from the State Bar with disciplinary charges pending. In prison, Liebb turned his life around. He maintained a discipline-free record for three decades, participated in a dozen rehabilitative programs, obtained an associate's degree, and provided legal assistance to fellow inmates. In all, Liebb spent 31 years in prison and three years on parole, which he completed early. Upon release, he continued his rehabilitation by volunteering with a law school organization and working at nonprofit organizations dedicated to helping the formerly incarcerated reenter society. In 2017, 36 years after committing his crimes, Liebb sought reinstatement to the bar.

The Hearing Department of the State Bar Court (Hearing Department) found that “[e]vidence of [Liebb’s] rehabilitation is most compelling and impressive. He has taken responsibility for his life and past misconduct; he has resurrected himself into a trustworthy, law-abiding and conscientious member of the community.” Nonetheless, it denied his reinstatement on the ground that he had not demonstrated exemplary conduct for a sufficient period of time. The court declined to credit Liebb’s decades of rehabilitation efforts while in custody and considered only the 10 months between his discharge from parole and the filing of his reinstatement petition. The State Bar Court Review Department (Review Department) affirmed the denial on the same grounds, stating that Liebb’s more than three decades of rehabilitation in custody was entitled to “little weight.”

Our law has not applied such a draconian approach. We have said that evidence of conduct *ordinarily required* of inmates and parolees does not rise to the level of “exemplary conduct” necessary to show rehabilitation. (*In re Gossage* (2000) 23 Cal.4th 1080, 1096 (*Gossage*).) But that proposition, even if correct, does not address the situation here, where there is persuasive evidence that Liebb has demonstrated rehabilitative efforts in custody that go *well beyond* the conduct ordinarily required of inmates and parolees. Moreover, there are reasons to doubt that a decades-long record of ordinary good behavior in custody should be treated with greater skepticism than noncustodial good behavior, at least with respect to life inmates who have served sentences as long as Liebb has served. The compelling record in this case presents an opportunity to address what weight an applicant’s rehabilitation while in custody may be given in reinstatement proceedings, an issue we have not addressed in 20 years.

Much has changed in those 20 years. Thousands of inmates have served long sentences, and many now have realistic hopes of release. Our Legislature has ameliorated the collateral consequences of a criminal conviction, allowing formerly incarcerated persons to serve on juries (Stats. 2019, ch. 591, § 1), to have a fair shot at employment (Stats. 2017, ch. 789, § 2), and to seal their records (Stats. 2019, ch. 578, § 7). Our electorate has recognized that rehabilitative behavior in custody may lead to sentencing reductions. (Cal. Const., art. 1, § 32, added by initiative, Gen. Elec. (Nov. 8, 2016), commonly known as Prop. 57.) I would grant review to consider when the legal profession may also afford second chances to formerly incarcerated individuals with compelling records of rehabilitation in custody.

I.

Stephen Liebb's past misconduct was as egregious as his subsequent redemption has been remarkable. In 1981, Liebb, then 25, had recently graduated from UCLA School of Law and become a member of the California bar. He began having disagreements with the landlord of his apartment, who was also the father of his friend Michael Diller. After several violent outbursts in which Liebb assaulted Michael's brother and an employee in the apartment's management office, Liebb confronted Michael and plunged a knife into his chest, killing him. Liebb was convicted of first degree murder and assault with a deadly weapon. He was sentenced to 26 years to life imprisonment with the possibility of parole. In 1983, Liebb was placed on interim suspension from the State Bar pending the final disposition of his criminal proceedings, and in 1989, he voluntarily resigned from the State Bar.

While incarcerated, Liebb's record was free of violence since 1989 and, according to the Hearing Department, "excellent since 1991." He underwent psychological therapy to deal with his anger management issues. Liebb completed 12 rehabilitation programs and classes involving individual and group therapy and self-help treatment. He also completed a three-year paralegal program and received an Associate of Arts degree from a college program run by the Prison University Project. Throughout his participation in these programs, Liebb received overwhelmingly laudatory reports from program supervisors, teachers, and corrections officers. Liebb also assisted fellow inmates with legal work, helping them prepare habeas petitions, file civil rights lawsuits, and secure new parole hearings.

In 2012, Liebb was granted parole after six previous denials. The parole board (Board) weighed the severity of his crimes against his age and progress toward rehabilitation, and concluded that Liebb no longer posed a danger to public safety. The Board considered the facts that Liebb was 56 at the time of the hearing, that he demonstrated genuine remorse, that he presented a low risk of violence to society, and that he had been free of discipline for 21 years in prison. He was released on parole in October 2013.

On parole, Liebb continued his rehabilitation. He attended anger management classes and Alcoholics Anonymous meetings five days a week, participated in a mentorship program for recently released individuals, and attended weekly therapy sessions. In 2016, Liebb began working as a law clerk. Since then, he has also worked for two nonprofit organizations dedicated to assisting former inmates reintegrate into society, and he has volunteered with San Francisco Public Works and University of California Hastings College of the Law. Liebb was discharged from parole four years early in November 2016, which, according to expert testimony cited by the

Hearing Department, “indicates, in the eyes of the parole board, that [Liebb] poses zero risk to public safety.”

In support of his good moral character, Liebb presented an “impressive array of 17 highly reputable character witnesses credibly attesting on his behalf,” including his employers and attorneys who knew him personally. The Hearing Department also found that Liebb had expressed remorse for his crimes and, as required by the rules governing reinstatement, possessed the present ability and learning in the general law. The Hearing Department “commend[ed] Petitioner’s tremendous efforts in successfully integrating into society and commitment to making amends for his crime.”

Nonetheless, the Hearing Department denied reinstatement on the ground that Liebb had not “shown exemplary conduct over an extended period of time since his discharge from supervised release in November 2016.” It declined to credit Liebb’s years of rehabilitation in prison and on parole because “ ‘[g]ood conduct is normally demanded of a prisoner and a parolee.’ (*In re Menna* [(1995)] 11 Cal.4th [975, ] 989.) ‘It is not enough that [Petitioner] kept out of trouble while being watched on probation; he must affirmatively demonstrate over a prolonged period his sincere regret and rehabilitation.’ (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 939.)” The Review Department affirmed, stating that “little weight can be placed on good conduct while in prison for the purposes of showing rehabilitation in State Bar matters.”

## II.

In California, a petitioner for reinstatement to the practice of law who previously had been disbarred or resigned with disciplinary charges pending must (1) pass a professional responsibility examination within one year prior to filing the petition; (2) establish rehabilitation; (3) establish present moral qualifications for reinstatement; and (4) establish present ability and learning in the general law by providing proof of taking and passing the Attorneys’ Examination within three years prior to the filing of the petition. (Rules Proc. of State Bar, rule 5.445.) There is no dispute that Liebb has fulfilled the first and fourth requirements. Only his rehabilitation and present moral qualifications are at issue.

The Hearing Department and Review Department relied on a line of cases from this court to conclude that Liebb’s rehabilitation in custody was entitled to little or no weight. (See *Gossage*, *supra*, 23 Cal.4th at p. 1099; *In re Menna*, *supra*, 11 Cal.4th at p. 989 (*Menna*); *Seide v. Committee of Bar Examiners*, *supra*, 49 Cal.3d at p. 939 (*Seide*); *In re Giddens* (1981) 30 Cal.3d 110, 116 (*Giddens*).) But those cases do not establish such a broad rule; instead, they stand for the proposition that evidence of conduct *ordinarily required* of inmates and parolees usually does not rise to the level of “exemplary conduct” necessary to show rehabilitation. (*Gossage*, at p. 1096.) They do not suggest that evidence of rehabilitative efforts above and beyond the conduct ordinarily required in custody must or should be discounted.

We first suggested that conduct ordinarily required of individuals in custody should be discounted in *Giddens*, *supra*, 30 Cal.3d 110, where we ordered the disbarment of an attorney for financing a months-long scheme to sell amphetamines. (*Id.* at p. 113.) At the time of the hearing, he had served two years in prison and was on parole. (*Id.* at p. 112.) Weighing the severity of the crime against mitigating factors, this court concluded that the attorney should be disbarred. (*Id.* at pp. 115-116.) We stated that although the attorney could apply for reinstatement at a later date, on

the record before us “[t]he lack of any extenuating circumstances surrounding the misconduct convinces us that further proof is needed of the requisite ‘standard of fitness’ during a period when petitioner is neither on parole . . . nor under supervision of the bar.” (*Id.* at p. 116.) We did not explain our reasoning for this limitation.

This court offered somewhat more elaboration in *Seide, supra*, 49 Cal.3d 933, where we denied an applicant admission to the bar for multiple arrests and convictions for drug trafficking over a seven-year period, including when he was in law school and studying for the bar. (*Id.* at p. 936.) At the time of his State Bar hearing, five years after the commission of his last crime, the petitioner had served a sentence of 147 days in prison and was still on federal probation. (*Id.* at pp. 935-936.) He presented no evidence of rehabilitation while incarcerated. As evidence of his rehabilitation on probation, the petitioner showed that he had started a family, stayed out of prison, and found employment. But we afforded these achievements little weight, stating that they “ ‘fail[] to indicate the type of rehabilitation normally expected in this type of case. The majority of [petitioner’s] post-incarceration activities constitute what is ordinarily expected as a member of society.’ ” (*Id.* at p. 941.) The evidence the petitioner provided did not demonstrate that his conduct was above and beyond the ordinary.

In *Menna, supra*, 11 Cal.4th 975, we declined to admit an applicant to the State Bar who, over a period of three years, engaged in compulsive gambling, misappropriated his clients’ funds to pay off his gambling debts, and manufactured methamphetamine for sale. When the petitioner applied for admission to the California State Bar after being permanently disbarred from New Jersey, it had been eight years since his last conviction and five years since he completed probation for that conviction. (*Id.* at pp. 980-981.) While incarcerated, the petitioner had organized and led a weekly Gamblers Anonymous meeting and continued to attend such meetings after his release. (*Id.* at p. 981.) But we declined to credit those three years in prison and on parole, stating that “[g]ood conduct is normally demanded of a prisoner and a parolee.” (*Id.* at p. 989, citing *Seide, supra*, 49 Cal.3d at p. 939, *Giddens, supra*, 30 Cal.3d at p. 116.)

Most recently in *Gossage, supra*, 23 Cal.4th 1080, we declined to admit an applicant to the State Bar who had a nine-year-long history of drug, forgery, theft, and driving offenses, as well as a voluntary manslaughter conviction for killing his sister. (*Id.* at pp. 1084-1093.) The Review Department credited the petitioner with a 14-year period of rehabilitation between the time he entered prison for his last offense and the time he appeared for his State Bar hearing. (*Id.* at p. 1099.) The petitioner had spent two of those years in prison and on parole, and had subsequently “repeatedly violated state traffic laws and sustained several misdemeanor convictions for mishandling [those] matters in court.” (*Id.* at p. 1088.) The petitioner did not submit any evidence of rehabilitation while in custody, except that it was in prison that he vowed to become sober. Unlike the Review Department, we did not credit the petitioner’s years in prison or on parole, stating that “[s]ince persons under the direct supervision of correctional authorities are required to behave in exemplary fashion, little weight is generally placed on the fact that a bar applicant did not commit additional crimes or continue addictive behavior while in prison or while on probation or parole.” (*Id.* at p. 1099, citing *Menna, supra*, 11 Cal.4th at p. 989, *Seide, supra*, 49 Cal.3d at p. 941.) Moreover, we noted that the petitioner violated probation and accrued a number of driving offenses after his release. (*Gossage*, at p. 1099.)

None of the above cases held that any rehabilitative conduct in custody must be discounted in the reinstatement analysis. They concluded only that behavior consistent with the minimum

requirements of custody is usually not evidence of the rehabilitation necessary for readmission to the bar because readmission requires demonstration of conduct above and beyond what is required. Our decisions said that not much weight can be given to “ ‘activities [that] constitute what is ordinarily expected as a member of society’ ” (*Seide, supra*, 49 Cal.3d at p. 941), behavior “normally demanded” of a person in custody (*Menna, supra*, 11 Cal.4th at p. 989), or the fact that a petitioner did not “commit additional crimes or continue addictive behavior” (*Gossage, supra*, 23 Cal.4th at p. 1099). But our cases did not discount good conduct above and beyond that which is ordinarily required of inmates and parolees. We had no occasion to consider such conduct because none of the petitioners in the cases above submitted substantial evidence of such conduct.

Liebb’s crimes are more serious than the petitioners’ offenses in these previous cases. None of those petitioners committed first degree murder. But Liebb has also submitted overwhelming evidence of an unbroken decades-long path of affirmative conduct demonstrating his rehabilitation beyond that of an ordinary prisoner or parolee. His completion of a dozen self-help programs and academic degrees, his legal assistance to inmates, and his volunteer work on parole and early discharge from parole seems as exemplary as it gets for an individual in his circumstances. The Review Department disagreed, explaining that his programming in prison cannot be considered because “the Board required the positive programming he engaged in while in prison as a condition for his release.” But this reasoning moves the goalposts for what is required of inmates. Conditions for early release, which an inmate need not fulfill, differ from the rules and regulations that all inmates must follow. In any event, the Hearing Department indicated that Liebb exceeded even the requirements for release, noting that “[t]he Board later found him to have far exceeded the standard of rehabilitation.”

Moreover, it is significant that Liebb’s incarceration and record of affirmative good conduct in custody was far lengthier than those of the petitioners in the previous cases. (See *Giddens, supra*, 30 Cal.3d at p. 112 [two years in prison, two years on parole]; *Seide, supra*, 49 Cal.3d at p. 936 [147 days in prison, five years on probation]; *Menna, supra*, 11 Cal.4th at p. 980 [one year in prison, two years on parole]; *Gossage, supra*, 23 Cal.4th at pp. 1086-1087 [one year in prison, one year on parole].) Although avoiding discipline during a brief period of incarceration may have limited value as evidence of rehabilitation or good moral character, I do not think the same can be said of three decades of rehabilitative behavior comprising, in Liebb’s case, more than half of his life at the time of his release on parole.

In sum, Liebb has shown compelling evidence of rehabilitation through decades of concerted effort, exemplary behavior, and positive contributions to his community both in and out of custody. He does not resemble the petitioners in our prior cases, and what we said in those cases does not address Liebb’s circumstances.

### III.

The Review Department said that “[g]iven Liebb’s grievous misconduct, a longer period of time is required” after his discharge from prison and parole, and that despite Liebb’s remorse and rehabilitation efforts, “[a] truer indication of Liebb’s rehabilitation will be if he can demonstrate exemplary conduct over an extended period of time that establishes his moral fitness to practice law.” I recognize that the rehabilitation necessary to practice law may be greater than the

rehabilitation necessary to be released from prison. But it is unclear what additional time would reveal about Liebb's moral fitness that he has not already demonstrated. Liebb was 62 at the time of his hearing; almost 40 years have elapsed since he committed his terrible crimes; and Liebb has spent more than three decades in continuous efforts to rehabilitate himself, to "mak[e] amends for his crime," and to "successfully integrat[e] into society." As the Hearing Department found, "He has taken responsibility for his life and past misconduct; he has resurrected himself into a trustworthy, law-abiding and conscientious member of the community." Would another three, four, or five years of programming, steady employment, or community service - against the backdrop of Liebb's "most compelling and impressive" rehabilitation efforts over more than three decades - tell us much more about his character than the record already shows?

The Review Department provided no clear answer to this question. It did not dispute the hearing judge's finding that "Liebb demonstrated remorse for his crimes and his victims." The Review Department's decision asserts that Liebb's therapy and programming in prison, while "contribut[ing] substantially to his personal well-being," "do not demonstrate truly exemplary conduct in the sense of returning something to the community Liebb harmed." But it is not clear why Liebb's comprehensive record of therapy and self-help programming, even if focused on bettering himself, should not count as rehabilitative; indeed, Liebb's serious and sustained engagement with therapy and programming while in prison seem paradigmatically rehabilitative. In any event, contrary to any suggestion that Liebb has not returned something to the community, the record is replete with evidence of Liebb's volunteer and community service activities both in and out of prison. The Review Department merely recited these activities without considering them in its analysis.

The Review Department also noted that "Liebb has not continued anger management therapy after his release from supervised parole, which is important because it directly addresses his past violent criminal misconduct." But any suggestion that Liebb may still pose a danger to the public is belied by the record. As the Hearing Department noted, Liebb had been violence-free since 1989, the Board found that he "presented a relatively low risk of violence in the free community," and an expert observed that Liebb's "early discharge from parole indicates, in the eyes of the parole board, that Petitioner poses zero risk to public safety." The Review Department did not address these facts.

In sum, the Review Department did not explain how further indicia of rehabilitation over "a longer period of time" would materially alter the present portrait of this applicant. To be sure, the length of time since an individual's misconduct is a consideration relevant to reinstatement. (See *Gossage, supra*, 23 Cal.4th at p. 1096 ["Cases authorizing admission on the basis of rehabilitation commonly involve a substantial period of exemplary conduct following the applicant's misdeeds."].) The more time that has elapsed since a person's misconduct, the more confident one can be that the person has reflected on past wrongs and has changed, and "the more serious the misconduct . . . , the stronger the applicant's showing of rehabilitation must be." (*Ibid.*) But, as the Hearing Department observed, Liebb "has gone through a process of reformation and transformation. He is not the same person as he was in 1981, almost 37 years ago . . . . He has clearly now matured. He is one of the convicted who has so much to teach society about rehabilitation and redemption - what it takes to be a person again and give back to society."

Whatever the ultimate merits of Liebb's reinstatement petition, I would grant review to address the important legal question this case presents: whether a reinstatement petitioner's exceptional



efforts devoted to rehabilitation must be discounted or ignored because they were made while in prison and on parole.

#### IV.

Separate and apart from the fact Liebb's good conduct has gone well beyond what is ordinarily required in prison or on parole, I have doubts about discounting a petitioner's good conduct in custody even if such conduct is ordinarily required. As noted, our cases have relied on the unexamined rationale that because good behavior in a custodial setting is mandatory, it is not probative of good moral character. This proposition seems questionable on several grounds. First, it is not clear what evidence supports the assertion that an inmate who displays good behavior in prison does so *only* because the rules require him to do so, and not because the inmate's compliance is indicative of rehabilitative progress. A different view is that inmates, especially those with long prison terms, demonstrate good behavior not simply because they are supervised, but because over time they have "progressed through phases of increased conscience, remorse, self-discovery, and redemption through service to others." (*Kreager & Kruttschnitt, Inmate Society in the Era of Mass Incarceration* (2018) 1 Annual Review of Criminology 261, 269.) Indeed, the "bad man" theory of compliance (Holmes, *The Path of the Law* (1897) 10 Harv. L.Rev. 457, 461) seems at odds with the basic penological principle that incarceration, among its many goals, serves to rehabilitate the offender.

Second, as the Hearing Department recognized, maintaining a discipline-free record is "difficult to do . . . in a prison setting." Given the restrictive rules of prison and the myriad ways those rules can be violated (see *People v. Contreras* (2018) 4 Cal.5th 349, 378-379), it is all the more remarkable when an inmate avoids violence and other rule infractions while in custody for as long as Liebb did. Indeed, there is widespread agreement in the penological literature that opportunities and incentives for violence and misconduct abound in prison. (See Cochran & Mears, *The Path of Least Desistance: Inmate Compliance and Recidivism* (2017) 34 Just. Q. 431, 435; Bottoms, *Interpersonal Violence and Social Order in Prisons* (1999) 26 Crime & Just. 205, 241; Robertson, *The Constitution in Protective Custody: An Analysis of the Rights of Protective Custody Inmates* (1987) 56 U.Cin. L.Rev. 91, 93-94; see also *Farmer v. Brennan* (1994) 511 U.S. 825, 858-859 (conc. opn. of Thomas, J.) ["Prisons are necessarily dangerous places . . . . Regrettably, '[s]ome level of brutality and sexual aggression among [prisoners] is inevitable no matter what the guards do . . . .']".) Prison environments and their accompanying dangers often cause inmates to resort to violence to protect themselves or to assert social dominance, making brutality a common occurrence. (See Irwin, *The Warehouse Prison: Disposal of the New Dangerous Class* (2005); Rhodes, *Total Confinement: Madness and Reason in the Maximum Security Prison* (2004); Adams, *Adjusting to Prison Life* (1992) 16 Crime & Just. 275; Levin, *Fight, Flee, Submit, Sue: Alternatives for Sexually Assaulted Prisoners* (1985) 18 Colum. J.L. & Soc. Probs. 505, 508-509.) Underground economies involving the sale of drugs, cell phones, and other contraband create webs of exploitation and debts enforceable by violence. And understaffing and overcrowding have made these problems worse. (See *Brown v. Plata* (2011) 563 U.S. 493, 520 [noting that overcrowding in California prisons "promote[s] unrest and violence, making it difficult for prison officials to monitor and control the prison population"].) A clean record is therefore difficult for any prisoner to maintain. The fact that Liebb managed to do

so for 21 years, including periods when his prisons (Corcoran and San Quentin) were badly overcrowded, seems quite probative of his character, separate from the positive programming he completed over those years.

Similarly, we have “recognize[d] the difficulties an exconvict faces in assimilating himself back into society.” (*Seide, supra*, 49 Cal.3d at p. 938.) Parole involves a high-supervision environment and strict rules of conduct that are easy to violate. (Hyatt & Barnes, *An Experimental Evaluation of the Impact of Intensive Supervision on the Recidivism of High-Risk Probationers* (2017) 63 Crime & Delinq. 3, 5-6, 26.) I do not see why Liebb’s spotless record on parole - which, along with his steady employment and community service activities, earned him an early discharge - should not be considered as evidence of rehabilitation in the reinstatement analysis.

It is notable that several other jurisdictions give consideration to in-custody rehabilitation efforts in the bar reinstatement context. They have either expressly stated that good conduct while in custody is entitled to some weight (*Statewide Grievance Comm. v. Ganim* (2014) 311 Conn. 430, 467, fn. 35 [87 A.3d 1078]), or they have regarded such conduct to be so obviously relevant that they have considered the conduct without comment (*Matter of Simmons* (2018) 190 Wn.2d 374, 390 [414 P.3d 1111]; *In re Cooke* (2012) 425 Md. 652, 690 [42 A.3d 610]; *In re Reinstatement of Ditrapano* (2018) 240 W.Va. 612, 618 [814 S.Ed.2d 275]; *Application of Rowell* (1988) 305 Or. 584, 592 [754 P.2d 905]; *In re Manville* (D.C. 1988) 538 A.2d 1128, 1135). These decisions, several of which postdate *Gossage*, provide further context for why I believe this case presents an appropriate occasion for us to reexamine the relevance of in-custody rehabilitation for bar proceedings in our state.

V.

Liebb’s record of rehabilitation is compelling, and the Hearing Department and Review Department denied Liebb’s reinstatement petition on the sole ground that he had not shown a sufficient period of rehabilitation outside of custody. I would grant review to consider what weight may be given to his lengthy rehabilitation while in custody and under supervision in assessing his application for reinstatement to the State Bar. In light of the court’s denial of review, I note that it has now been more than three years since Liebb was discharged from parole and nearly two years since he was denied reinstatement by the Hearing Department. Liebb may reapply for reinstatement two years following the effective date of an adverse decision. (Rules Proc. of State Bar, rule 5.442(c).)

LIU, J.

I CONCUR:  
CUÉLLAR, J.

**S259863**

B298700 Second Appellate District, Div. 2

**CROWN (CHAD EDWARD)  
ON H.C.**

Petition for review denied

<b>S260116</b>	B251527 Second Appellate District, Div. 2	<b>PEOPLE v. ANDERSON (GETZ)</b>
Petitions for review denied		
<b>S260138</b>	B288574 Second Appellate District, Div. 2	<b>GRAY (COREY) v. GELSEBACH (GEORGE)</b>
Petition for review & publication request(s) denied		
<b>S260183</b>	E072191 Fourth Appellate District, Div. 2	<b>McDOWELL (JONATHAN DEWITT) ON H.C.</b>
Petition for review denied		
Liu, J., is of the opinion an order to show cause should be issued as to claim one.		
<b>S260218</b>	C090088 Third Appellate District	<b>VELOCITY COMMUNICATIONS, INC. v. PUBLIC UTILITIES COMMISSION (INYO NETWORKS, INC.)</b>
Petition for review denied		
<b>S260221</b>	F074350 Fifth Appellate District	<b>PEOPLE v. RIOS (ANTHONY)</b>
Petitions for review denied		
<b>S260234</b>	B303387 Second Appellate District, Div. 7	<b>WILLIAMS (LANCE ELLIOT) ON H.C.</b>
Petition for review denied		
<b>S260241</b>	D075838 Fourth Appellate District, Div. 1	<b>PEOPLE v. COX (STANLEY EARL)</b>
Petition for review denied		
<b>S260243</b>	B285288 Second Appellate District, Div. 3	<b>PEOPLE v. HOOFOOKER (QUINZELL)</b>
Petitions for review denied		

**S260257** H045577 Sixth Appellate District

Petition for review denied

**KIM, JR., (DANIEL KEE-YOUNG) v. COUNTY OF MONTEREY**

**S260286** B287382 Second Appellate District, Div. 2

Petition for review denied

**FLORES (ANA) v. COUNTY OF LOS ANGELES PROBATION DEPARTMENT**

**S260319** A154220 First Appellate District, Div. 4

Petition for review denied

**IN RE ANTHONY L.**

**S260341** C077711 Third Appellate District

Petition for review denied; CA opinion decertified

**PEOPLE v. WARNER (SHANE MICHAEL)**

The petition for review is denied.

On the court's own motion, the Reporter of Decisions is directed not to publish in the Official Appellate Reports the opinion in the above-entitled appeal filed December 16, 2019, which appears at 43 Cal.App.5th 457. (Cal. Const., art. VI, section 14; Cal. Rules of Court, rule 8.1125(c)(2).)

**S260366** A154492 First Appellate District, Div. 5

Petition for review denied

**PEOPLE v. JONES (ALIJONDRO)**

**S260370** B303481 Second Appellate District, Div. 2

Petition for review denied

**NYE (WILLIAM S.) v. S.C. (BUENA VISTA TELEVISION, LLC)**

**S260384** A155855 First Appellate District, Div. 5

Petition for review denied

**NEMCIK (TANYA) v. KRIPPENDORF (BRIAN)**

**S260392** D075769 Fourth Appellate District, Div. 1

Petition for review denied

**PEOPLE v. BOVA (ANDRE STEVEN)**

**S260393** G056538 Fourth Appellate District, Div. 3

Petition for review denied

**PEOPLE v. RUIZ (JAVIER CABRERA)**

**S260398** F074262 Fifth Appellate District

Petition for review denied

**MAXCO SUPPLY, INC. v. BARAJAS (JOSE)**

**S260406** B290665 Second Appellate District, Div. 7

Petition for review denied

**C.W. HOWE PARTNERS INC. v. MOORADIAN (GREG)**

**S260417** B293131 Second Appellate District, Div. 5

Petition for review denied

**PEOPLE v. BOURGEOIS (RODNEY)**

**S260422** B292624 Second Appellate District, Div. 4

Petition for review denied

**PEOPLE v. JONES (MARLIN)**

**S260457** B264661 Second Appellate District, Div. 8

Petition for review denied

**PEOPLE v. KENNEDY (JOHN FITZGERALD)**

**S260477** A152935 First Appellate District, Div. 4

Petition for review denied

Kruger, J., is of the opinion the petition should be granted.

**RINCON EV REALTY LLC v. CP III RINCON TOWERS, INC.**

**S260481**

Petition for review denied

**ZIELKE (GUNTER) v. ROSENSTIEL (SCOTT ERIC)**

**S260507** C087240 Third Appellate District

Petition for review denied

**DUMMER (TIMOTHY JAMES) v. CONTRACTORS' STATE LICENSE BOARD**

**S260515** B289934 Second Appellate District, Div. 4

Petition for review denied

**PEOPLE v. CARSON (JAMES ROBERT)**

**S260545** B303533 Second Appellate District, Div. 1

Stay dissolved; petition denied

**GERMON (SEBASTIAN) v. S.C. (PEOPLE)**

The petition for review is denied. The stay previously issued by this court is dissolved.

**S260547** B278395 Second Appellate District, Div. 3

Petition for review denied

**ADAMS (CHRISTOPHER M.) v. TOPOLEWSKI (DAVID); CIRRUS EDUCATION, INC.**

**S260550** F077816 Fifth Appellate District

Petition for review denied

**PEOPLE v. STRANGE (DAVID LAMAR)**

**S260563** D077019 Fourth Appellate District, Div. 1

Petition for review denied

**ARELLANO (RAUL) ON H.C.**

**S260577** B303714 Second Appellate District, Div. 5

Petition for review denied

**JOSEPH (JORDAN) v. S.C. (PEOPLE)**

**S260580** C090750 Third Appellate District

Petition for review denied

**CARPENTER (DAVID LIONEL) ON H.C.**

**S260600** C081467 Third Appellate District

Petition for review denied

**PEOPLE v. FIELDS  
(WARREN)**

**S260605** F080163 Fifth Appellate District

The petition for review is denied without prejudice to filing a petition for writ of habeas corpus in the Court of Appeal.

**KENNISTON (KEVIN) v.  
CALIFORNIA DEPARTMENT  
OF CORRECTIONS &  
REHABILITATION**

**S260612** B303167 Second Appellate District, Div. 5  
Petition for review denied

**MOYA (LEONEL) ON H.C.**

**S260613** B288383 Second Appellate District, Div. 5

Petition for review denied

**LANCASTER (WALTER) v.  
CITY OF LOS ANGELES**

**S260614** B301376 Second Appellate District, Div. 4

The petition for review is denied without prejudice to any relief to which petitioner might be entitled after this court decides *In re Mohammad*, S259999.

**RENTERIA (RONALD DAVE)  
ON H.C.**

**S260633** B295916 Second Appellate District, Div. 2

Petition for review denied

**LERNER (LYUDMILA) v.  
COWEN (STANLEY)**

**S260674** D075326 Fourth Appellate District, Div. 1

The petition for review is denied without prejudice to any relief to which defendant might be entitled after this court decides *People v. Kopp*, S257844.

**PEOPLE v. GARCIA  
(ARMANDO VIVIANO)**

**S260680** A159309 First Appellate District, Div. 4  
Petition for review denied

**LIVELY (ERIC J.) ON H.C.**

<b>S260687</b>	B295465 Second Appellate District, Div. 6	<b>IN RE F.H.</b>
Petition for review denied		
<b>S260691</b>	C083163 Third Appellate District	<b>PEOPLE v. KNIGHT (DEAN MICHAEL)</b>
Petition for review denied		
<b>S260694</b>	A158686 First Appellate District, Div. 1	<b>REMINGTON (BRUCE) v. MATHSON (JOHN)</b>
Petition for review denied		
<b>S260707</b>	A156397 First Appellate District, Div. 5	<b>PEOPLE v. ADKISSON (GARY W.)</b>
Petition for review denied		
<b>S260727</b>	H045589 Sixth Appellate District	<b>PEOPLE v. ARTIAGA (VICTOR DAVID)</b>
Petition for review denied		
<b>S260730</b>	B292479 Second Appellate District, Div. 2	<b>PEOPLE v. VARGAS (RAYMOND SORIANO)</b>
Petition for review denied		
<b>S260734</b>	C084623 Third Appellate District	<b>PEOPLE v. HARDY (MICHAEL JAMES)</b>
Petition for review denied		
<b>S260737</b>	B290905 Second Appellate District, Div. 3	<b>PEOPLE v. PICKENS (ALFONZO)</b>
The petition for review is denied without prejudice to any relief to which defendant might be entitled after this court decides <i>People v. Kopp</i> , S257844.		
<b>S260739</b>	F073905 Fifth Appellate District	<b>PEOPLE v. APOLINAR (RAFAEL)</b>
Petition for review denied		



**S260741** C087878 Third Appellate District

Petition for review denied

**PEOPLE v. SLOSS (ERIN LYNN)**

**S260746** G057337 Fourth Appellate District, Div. 3

Petition for review denied

**J SYLVESTER  
CONSTRUCTION, INC. v.  
STANDEFORD (RICHARD R.)**

**S260748** C088098 Third Appellate District

Petition for review denied

**IN RE J.H.**

**S260760** C084521 Third Appellate District

The petition for review is denied without prejudice to any relief to which defendant might be entitled after this court decides *People v. Kopp*, S257844.

**PEOPLE v. WEST, JR.,  
(JERRY)**

**S260767** B293392 Second Appellate District, Div. 3

The petition for review is denied without prejudice to any relief to which petitioner might be entitled after this court decides *People v. Kopp*, S257844.

**PEOPLE v. RIOS (EDGAR VILLATORO)**

**S260768** A154490 First Appellate District, Div. 2

Petition for review denied

**PEOPLE v. CAUICH  
(LIZETTE)**

**S260770** H046983 Sixth Appellate District

The petition for review is denied without prejudice to any relief to which defendant might be entitled after this court decides *People v. Kopp*, S257844.

**PEOPLE v. WILDER  
(KENNETH HUNTER  
DOUGLAS)**

**S260773** B275387 Second Appellate District, Div. 1

Petition for review denied

**ALCALA (MARIA) v. CITY  
OF LOS ANGELES**

**S260775** B294521 Second Appellate District, Div. 2  
Petition for review denied

**IN RE ERIC T.**

**S260787** F076217 Fifth Appellate District  
Petition for review denied

**PEOPLE v. RUBALCABA  
(ELOY QUEZADA)**

**S260803** B293484 Second Appellate District, Div. 6

**PEOPLE v. ALCANTAR  
(RAQUEL ANDREA)**

The petition for review is denied without prejudice to any relief to which defendant might be entitled after this court decides *People v. Kopp*, S257844.

**S261060**

**TEDESCO (THOMAS S.),  
CONSERVATORSHIP OF**

Petition for writ of mandate/prohibition & application for stay denied

**S259205**

**LYNCH (PAUL ANTHONY)  
ON H.C.**

Petition for writ of habeas corpus denied

**S259727**

**HERNANDEZ (RAYMUNDO  
HERRERA) ON H.C.**

Petition for writ of habeas corpus denied

**S259729**

**LUFT (BRIAN LEE) ON H.C.**

The petition for writ of habeas corpus is denied. (See *People v. Duvall* (1995) 9 Cal.4th 464, 474 [a petition for writ of habeas corpus must include copies of reasonably available documentary evidence]; *In re Swain* (1949) 34 Cal.2d 300, 304 [a petition for writ of habeas corpus must allege sufficient facts with particularity].)

**S259736**

**FRANKLIN (MARCELLE  
LEON) ON H.C.**

Petition for writ of habeas corpus denied

**S259776****GREEN (VENCIL C.) ON H.C**

The petition for writ of habeas corpus is denied without prejudice to any relief to which petitioner might be entitled after this court decides *In re Palmer*, S256149.

**S259809****ARELLANO (JAVIER) ON H.C.**

Petition for writ of habeas corpus denied

**S259822****PASTORE (ANTONIO STEVEN) ON H.C.**

Petition for writ of habeas corpus denied

**S259912****RAMOS, JR., (PEDRO) ON H.C.**

Petition for writ of habeas corpus denied

**S259937****PRADO (JONATHAN) ON H.C.**

The petition for writ of habeas corpus is denied. (See *People v. Duvall* (1995) 9 Cal.4th 464, 474 [a petition for writ of habeas corpus must include copies of reasonably available documentary evidence].)

**S259958****McCARTHY (JAMES TIMOTHY) ON H.C.**

Petition for writ of habeas corpus denied

**S259997****GUTOWSKI (MICHAEL JOSEPH) ON H.C.**

Petition for writ of habeas corpus denied

**S260004****FIELDS (DENNY D.) ON H.C.**

Petition for writ of habeas corpus denied

**S260025****FONTALVO (BOBBY) ON  
H.C.**

The petition for writ of habeas corpus is denied. (See *People v. Duvall* (1995) 9 Cal.4th 464, 474 [a petition for writ of habeas corpus must include copies of reasonably available documentary evidence]; *In re Swain* (1949) 34 Cal.2d 300, 304 [a petition for writ of habeas corpus must allege sufficient facts with particularity].)

**S260036****BELL (DEGENE RAPHEL)  
ON H.C.**

The petition for writ of habeas corpus is denied. (See *In re Robbins* (1998) 18 Cal.4th 770, 780 [courts will not entertain habeas corpus claims that are untimely]; *In re Clark* (1993) 5 Cal.4th 750, 767-769 [courts will not entertain habeas corpus claims that are successive]; *People v. Duvall* (1995) 9 Cal.4th 464, 474 [a petition for writ of habeas corpus must include copies of reasonably available documentary evidence]; *In re Dexter* (1979) 25 Cal.3d 921, 925-926 [a habeas corpus petitioner must exhaust available administrative remedies].)

**S260039****GALE (ROB RAY) ON H.C.**

Petition for writ of habeas corpus denied

**S260099****ARROYO (LUIS AVILA) ON  
H.C.**

Petition for writ of habeas corpus denied

**S260101****BURCHETT (PETER) ON  
H.C.**

Petition for writ of habeas corpus denied

**S260189****CROSS (ANTOINE DEVIN)  
ON H.C.**

Petition for writ of habeas corpus denied

**S260190****McDONALD (ELIJAH T.) ON  
H.C.**

The petition for writ of habeas corpus is denied. (See *In re Robbins* (1998) 18 Cal.4th 770, 780 [courts will not entertain habeas corpus claims that are untimely]; *In re Clark* (1993) 5 Cal.4th 750, 767-769 [courts will not entertain habeas corpus claims that are successive].)

**S260191****AGUILAR (JESUS RAUL) ON  
H.C.**

The petition for writ of habeas corpus is denied. (See *People v. Duvall* (1995) 9 Cal.4th 464, 474 [a petition for writ of habeas corpus must include copies of reasonably available documentary evidence].)

**S260192****TURNER (ALAN LEE) ON  
H.C.**

The petition for writ of habeas corpus is denied. (See *People v. Duvall* (1995) 9 Cal.4th 464, 474 [a petition for writ of habeas corpus must include copies of reasonably available documentary evidence].)

**S260535****HALL (DAVID SCOTT) ON  
H.C.**

Petition for writ of habeas corpus denied

**S260537****McCURDY (GLENN) ON H.C.**

Petition for writ of habeas corpus denied

**S259856**

C084800 Third Appellate District

**NOORI (MOHAMMED) v.  
COUNTRYWIDE PAYROLL  
& HR SOLUTIONS, INC.**

Depublication request denied (case closed)

The request for an order directing partial depublication of the opinion in the above-entitled appeal is denied. The court declines to review this matter on its own motion. The matter is now final.

**S260131**

A154707 First Appellate District, Div. 5

**TEED (RICHARD) v.  
SOTHEBY'S  
INTERNATIONAL REALTY,  
INC.**

Publication request denied (case closed)

**S260654**

A153725 First Appellate District, Div. 4

**MIRIWA CENTER  
INVESTMENTS v. MIRIWA  
CENTER CONDOMINIUM  
OWNERS' ASSOCIATION**

Publication request denied (case closed)

**S256149**      A154269 First Appellate District, Div. 2

**PALMER II (WILLIAM M.)  
ON H.C.**

Application to appear as counsel pro hac vice granted

The application of Miriam Gohara for admission pro hac vice to appear on behalf of the Prison Law Office, David Muhammad, and Vincent Schiraldi is hereby granted. (See Cal. Rules of Court, rule 9.40.)

**S259325**      A154832 First Appellate District, Div. 4

**PEOPLE v. RYAN (STEVEN  
PATRICK)**

Counsel appointment order filed

Upon request of appellant for appointment of counsel, Jennifer Peabody is hereby appointed to represent appellant on the appeal now pending in this court.

**S259898**      A152777 First Appellate District, Div. 5

**PEOPLE v. DAVIDSON  
(ANJANETTE CORENE)**

Counsel appointment order filed

Upon request of appellant for appointment of counsel, Eileen Manning-Villar is hereby appointed to represent appellant on the appeal now pending in this court.

**S259968**      A156017 First Appellate District, Div. 4

**PEOPLE v. HARRELL  
(JOSHUA)**

Counsel appointment order filed

Upon request of appellant for appointment of counsel, Carlo Andreani is hereby appointed to represent appellant on the appeal now pending in this court.

**S260046**      A154181 First Appellate District, Div. 1

**PEOPLE v. TOOKER  
(CHARLES)**

Counsel appointment order filed

Upon request of appellant for appointment of counsel, Edward Haggerty is hereby appointed to represent appellant on the appeal now pending in this court.

**S260251**      A156607 First Appellate District, Div. 3

**PEOPLE v.  
CALDERON-LOPEZ  
(RACHEL)**

Counsel appointment order filed

Upon request of appellant for appointment of counsel, Richard Fitzner is hereby appointed to represent appellant on the appeal now pending in this court.

**S260444**

Petition denied (accusation)

**ACCUSATION OF UKKERD**

**S260601**

Petition denied (accusation)

**ACCUSATION OF  
SPENGLER**

**S260602**

Petition denied (accusation)

**ACCUSATION OF  
SPENGLER**

**S260608**

Petition denied (accusation)

**ACCUSATION OF BoWELL**