

ORIGINAL
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LOS ANGELES SUPERIOR COURT

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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF LOS ANGELES
11 CRIMINAL DIVISION

13 Case No.: NA018040

14
15 In re Leif Taylor,
16 *on habeas corpus.*

**Petitioner's Traverse and
Memorandum in Support**

17 Department S22
18 Next Hearing: November 14, 2017

19
20
21 Petitioner submits this short Memorandum, Traverse, and Proposed Order to comply with
22 habeas corpus procedure and to expedite the process.

23 Petitioner Taylor filed this habeas corpus Petition in the California Supreme Court, asserting
24 that because he was 16 years old at the time of the offense his sentence of life without the
25 possibility of parole violated state and federal law under *People v. Gutierrez*, 58 Cal.4th 1354
26 (2014) and *Miller v. Alabama*, 132 S.Ct. 2455 (2012). On June 28, that court ordered the
27 government to show cause in this Court "why petitioner is not entitled to a resentencing
28

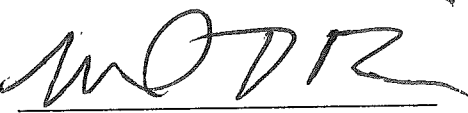
1 hearing” under Gutierrez and *In re Kirchner*, 2 Cal. 5th 1040, 1043 (2017), which held that “a
2 petitioner may obtain a *Miller* resentencing as a form of habeas corpus relief.” That order
3 transferred the case to this Court to conduct all future proceedings. *See People v. Romero*, 8
4 Cal. 4th 728, 740 (1994).

5 The supreme court’s “issuance of an order to show cause returnable before a lower court is
6 an implicit preliminary determination that the petitioner has made a sufficient prima facie
7 statement of specific facts which, if established, entitle him to habeas corpus relief under
8 existing law.” *In re Hochberg*, 2 Cal. 3d 870, 876 (1970). The People do not contest any of the
9 material facts set forth in the Petition or otherwise attempt to show cause that Taylor should not
10 be resentenced; to the contrary, they agree that Taylor is entitled to a new sentencing hearing.
11 *See Return* ¶ VIII.¹

12 This Court should therefore vacate Taylor’s sentence of life in prison without the possibility
13 of parole and conduct a new sentencing hearing. *In re Nunez*, 173 Cal. App. 4th 709, 739
14 (2009). Taylor reiterates his request that he not be brought from the CDCR to county custody
15 until shortly before his resentencing hearing.

16 At his resentencing hearing, Taylor will be “entitled to all the normal rights and procedures
17 available at his original sentencing.” *People v. Foley*, 170 Cal. App. 3d 1039, 1047 (1985). The
18 question before the Court will be whether the Prosecution can show that Taylor is “irreparably
19 corrupt, beyond redemption, and thus unfit ever to reenter society, notwithstanding the
20 diminished culpability and greater prospects for reform that ordinarily distinguish juveniles
21 from adults.” *Gutierrez*, 58 Cal.4th at 1391.

22 Dated: 10/20/17

23 By: 


24 Michael T. Risher
25 Counsel for Petitioner

26 ¹ The government’s general denial in paragraph X of its return does not serve to controvert any of the facts in the
27 Petition. *People v. Duvall*, 9 Cal. 4th 464, 479 (1995). Instead, it merely “indicates the People’s willingness to
28 rely on the record” set forth in the Petition. *Id.* Petitioner has nevertheless submitted a short traverse, attached to
this memorandum.

Petitioner's Traverse

Petitioner hereby re-alleges and incorporates by reference each of the allegations contained in the Amended Verified Petition for a Writ of Habeas Corpus filed in the California Supreme Court on February 23, 2016, together with the exhibits filed concurrently. *See In re Sodersten*, 146 Cal. App. 4th 1163, 1173 n.6 (2007).

October 20, 2017



Michael T. Risher

Verification

I, Michael T. Risher, declare as follows:

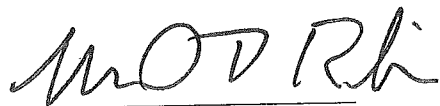
I am an attorney admitted to practice law in the State of California. I am an attorney for Petitioner Leif Taylor and am authorized to file this Traverse on his behalf.

Mr. Taylor is incarcerated in Imperial County; my office is in San Francisco County. For this reason, I am making this verification on his behalf and with his permission.

I have read the Amended Petition for Writ of Habeas Corpus and Traverse and am informed and believe the allegations therein are true.

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

October 20, 2017



Michael T. Risher