

JOSEPH R. GRODIN
2926 Avalon Avenue
Berkeley, CA 94705

December 23, 2005

Hon. Arnold Schwarzenegger
c/o Andrea Lynn Hoch
Legal Affairs Secretary
State Capitol Building
Sacramento, CA 95814

Re: Clarence Ray Allen Petition for Clemency

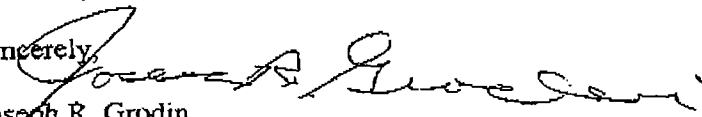
Dear Governor Schwarzenegger,

In 1986 I authored the California Supreme Court's opinion in *People v. Clarence Ray Allen*, 42 Cal. 3d 122 (1986), affirming Mr. Allen's conviction and the judgment imposing the death penalty sentence. I did so because, based on the record developed to that point, I thought Mr. Allen had received a fair trial and that the procedures which led to the sentence conformed to what the law required.

Now, twenty years later, the issue is no longer whether Mr. Allen was guilty or whether the procedures leading to his death sentence conformed to law. Mr. Allen has been on death row for over 23 years. He is 75 years old. I am informed he is legally blind, that he has recently suffered a massive coronary, and that he is confined to a wheelchair. The outdated and inadequate physical conditions at San Quentin, and particularly the substandard medical care at the facility recently revealed by the lawsuit that caused Judge Henderson to put the entire medical care system of the Department of Corrections into receivership raise the strong suspicion that his physical deterioration is not simply a consequence of old age and the passage of time, but that it is attributable in part to the actions of the state itself.

In any event, the issue now -- for you as Governor and for me as private citizen -- is whether the execution of Mr. Allen would serve any legitimate societal interest in either retribution or deterrence. My own judgment, considering the time that has elapsed, the physical suffering that Mr. Allen has endured, and the state's likely involvement in that suffering, is that it would not. On the contrary, to execute Mr. Allen now, under these conditions, for a crime which he committed more than a quarter century ago, would itself violate societal standards of decency. I hope you share this judgment and that you will grant Mr. Allen's petition for clemency.

Sincerely,



Joseph R. Grodin
Associate Justice, California Supreme Court (Ret.)