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9 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
10 **COUNTY OF SACRAMENTO**

11 ALLIANCE FOR CONSTITUTIONAL
12 SEX OFFENSE LAWS, INC.,
13 a California non-profit corporation;
14 JOHN DOE #1, an individual; and
15 JOHN DOE #2, an individual,

16 Petitioners/Plaintiffs,

17 vs.

18 ROB BONTA, in his official capacity as
19 Attorney General of the State of California,

20 Respondent/Defendant.

Case No.:

**PETITION FOR WRIT OF MANDATE
AND COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF
(CAL. CIV. PROC. CODE §§ 1085, 1060)**

21 **INTRODUCTION AND SUMMARY OF PETITION**

22 1. In 2017, the California Legislature passed and the Governor signed into law Senate Bill 384.
23 This bill transformed California’s lifetime sex offender registry, as codified in the Sex Offender
24 Registration Act (Penal Code § 290, *et seq.* [hereinafter, the “**Act**”]), into a tiered system that
25 permits some individuals required to register as a sex offender (“**Registrants**”) to petition the
26 Superior Court to terminate their registration requirement after 10 or 20 years, depending on the tier
27 to which SB 384 assigns them. (Sen. Bill No. 384 (2017-2018 Reg. Sess.) §§ 1-2 [hereinafter, “**SB**
28 **384**” or the “**Tiered Registry Law**”].)

1 2. SB 384 affected this change in the Act by repealing and replacing the statutes that comprised
2 the lifetime registry, most notably Penal Code sections 290 and 290.5. As more fully pleaded
3 herein, Section 290(d), as amended by the Tiered Registry Law, assigns individual Registrants
4 convicted as adults to Tier 1, Tier 2, Tier 3 – Risk Category, or Tier 3 – Lifetime. In most cases,
5 tier assignment are determined solely by the offense for which the Registrant was convicted. The
6 California Department of Justice (“CA DOJ”), the agency responsible for implementing the Tiered
7 Registry Law, assumed responsibility for confirming tier assignments and communicating the same
8 to Registrants as well as law enforcement.

9 3. Critically, the operative date for the Tiered Registry Law was January 1, 2021. (See Cal.
10 Penal. Code § 290, subd. (g), as amended by SB 384 (2017).) By delaying the operative date of the
11 Tiered Registry Law to January 1, 2021, the Legislature provided CA DOJ with over three years
12 from the date of its passage in 2017 to ascertain and communicate tier assignments.

13 4. This Petition concerns the provision of the Tiered Registry Law that governs Registrants
14 whose “tier designation . . . cannot be immediately ascertained” by January 1, 2021. In such cases,
15 Section 290(d)(5) authorizes CA DOJ to “place a person described in [Section 290] subdivision (c)
16 [*i.e.*, convicted of a registrable offense under California law], or who is otherwise required to
17 register pursuant to the Act, in a tier-to-be-determined category.” (Penal Code § 290(d)(5)(A).)
18 Critically, Section 290(d)(5)(B) of the Act mandates that CA DOJ assign all California Registrants
19 in the Tier-to-be-Determined category to their correct tier within 24 months, as follows: “The
20 Department of Justice shall ascertain an individual’s appropriate tier designation as described in this
21 subdivision within 24 months of the individual’s placement in the tier-to-be-determined category.”
22 (Cal. Penal Code § 290(d)(5) (B), emphasis added.)

23 5. Petitioners contend that this 24-month grace period commenced on the operative date of the
24 Tiered Registry Law, January 1, 2021, such that CA DOJ’s deadline to assign all Registrants to their
25 tier was 24 months later, or December 31, 2022. As more fully pleaded herein, CA DOJ has not
26 met that deadline. In response to a Public Records Act request, CA DOJ confirms that 12,483
27 Registrants remained in the Tier-to-be-Determined category on November 8, 2022, which is 12.27%
28 of the total reported number of California Registrants on that date. Upon information and belief,

1 some or all of those 12,483 Registrants remained in the Tier-to-be-Determined category on
2 December 31, 2022, in violation of CA DOJ's ministerial duty pursuant to Section 280(d)(5)(B).

3 6. CA DOJ's failure to observe its ministerial duty in this regard is detrimental to thousands of
4 Registrants throughout the state who remain in the Tier-to-be-Determined category, including
5 Petitioner John Doe #1, who is entitled to petition for termination of his registration requirement,
6 but who is prohibited from doing so for lack of a tier assignment. Specifically, Petitioner John Doe
7 #1 has served the 20-year mandated minimum registration period applicable to his offense, and is
8 entitled to petition for termination of his registration requirement. However, Petitioner John Doe
9 #1's petition to terminate his sex offender registration was opposed by the District Attorney for the
10 County of San Diego because he lacked a tier assignment. The petition was withdrawn. As of
11 January 3, 2023, Petitioner John Doe #1 is without a tier assignment.

12 7. Therefore, Petitioners are forced to bring this Petition for mandamus and declaratory relief,
13 seeking a writ of mandate compelling CA DOJ to immediately assign all Registrants to Tier 1, Tier
14 2, Tier 3 – Risk Level, or Tier 3 – Lifetime, per the Tiered Registry Law, consistent with CA DOJ's
15 ministerial duty set forth in Penal Code Section 290(d)(5)(B). In addition, Petitioners seek a
16 judgment declaring that assignment to a tier by CA DOJ is not a condition of eligibility for
17 petitioning for termination of their registration requirement pursuant to California Penal Code
18 section 290.5, and that Registrants are eligible to petition for termination even when placed in the
19 Tier-to-be-Determined category, when the record discloses the tier to which they are assigned and
20 that they have served the mandated minimum registration period applicable to their tier.

21 **JURISDICTION AND VENUE**

22 8. As a court of unlimited jurisdiction, the Superior Court of California, County of Sacramento
23 has jurisdiction over this action for mandamus, declaratory, and injunctive relief pursuant to
24 California Code of Civil Procedure sections 1084, *et seq.* and 1060.

25 9. Venue is proper within this Court pursuant to Code of Civil Procedure sections 395 and 401
26 because Respondent is located in, and/or maintains an office in, Sacramento County.

27 ///

28 ///

PARTIES

10. Petitioners reallege and incorporate herein, as though fully set forth, all and inclusively, paragraphs 1 through 9.

11. Petitioner Alliance for Constitutional Sex Offense Laws, Inc. (“ACSOL”) is a non-profit corporation incorporated and headquartered in Los Angeles County, California. ACSOL is dedicated to protecting the Constitution by restoring the civil rights of more than 100,000 Registrants in the State of California through advocacy, education, and litigation on behalf of them and their families. ACSOL is beneficially interested in the outcome of these proceedings, as well as in Respondent’s performance of his legal duties, and therefore seeks by this Petition to procure enforcement of a public duty on a question of public right. (Cal. Civ. Proc. Code § 1086.)

12. Petitioner John Doe #1, age 68, is a Registrant currently residing in the State of California, who has been placed in the Tier-to-be-determined category by CA DOJ, as most recently confirmed by his registering law enforcement agency via telephone on January 3, 2023. In 1997, Petitioner John Doe #1 was convicted in a military court of an offense requiring registration under the Act which, upon information and belief, is the equivalent of an offense assigned to Tier 2 by the Act. Petitioner John Doe #1 has faithfully registered and otherwise complied with the Act since his conviction. Accordingly, Petitioner John Doe #1 has served the 20-year mandated minimum registration period applicable to his offense and is entitled to petition for termination of his registration requirement, but is prevented from doing so by Respondents’ failure to assign Petitioner John Doe #1 to a Tier, as more particularly pleaded herein. In fact, in November 2021, Petitioner John Doe #1 filed a petition to terminate his sex offender registration in the Superior Court of California, County of San Diego. The District Attorney for the County of San Diego objected to the petition, and requested that it be summarily denied, on the ground that “[the] Petition is premature, tier has not been determined by DOJ. Per PC 290(d)(5)(A) and (B) must continue to register.”

13. Petitioner John Doe #2, age 58, is a Registrant currently residing in the State of California, who has been placed in the Tier-to-be-determined category by CA DOJ, as most recently confirmed by his registering law enforcement agency via telephone on January 4, 2023. Over 20 years ago, Plaintiff John Doe #2 was convicted of an offense requiring registration under the Act in the State of

1 Florida. Petitioner John Doe #2 has faithfully registered and otherwise complied with the Act since
2 his conviction.

3 14. Petitioners ACSOL, John Doe #1, and John Doe #2 shall be referred to herein collectively as
4 “**Petitioners.**”

5 15. Respondent Rob Bonta is the Attorney General of the State of California, and the highest
6 official within the California Department of Justice, and as such is responsible for implementing the
7 Act. In his official capacity, as set forth in Article 5, Section 13 of the California Constitution,
8 Respondent Bonta is the “chief law officer of the State” with a duty “to see that the laws of the state
9 are uniformly and adequately enforced.” Respondent Bonta “has charge . . . of all legal matters in
10 which the State is interested.” (Cal. Gov. Code § 12511.) Respondent Bonta is sued in his official
11 capacity only.

12 **FACTS AND GROUNDS FOR PETITION**

13 16. Petitioners reallege and incorporate herein, as though fully set forth, each and every, all and
14 inclusively, paragraphs 1 through 15.

15 **The Passage of SB 384 and the Advent of California’s Tiered Registry Law**

16 17. The California Legislature first enacted a sex offender registry in 1947. (Stats. 1947, ch.
17 1124, § 1, p. 2562. See also *Wright v. Superior Court* (1997) 15 Cal. 4th 521, 526.) For more than
18 70 years, that is, between 1947 and 2021, the California Sex Offender Registration Act, Penal Code
19 section 290, *et seq.* (the “**Act**”), required virtually all persons convicted of certified specified
20 offenses as adults to register for life, regardless of the offense for which that Registrant was
21 convicted, the age of the conviction, or the absence of any risk to public safety. During that period,
22 the only persons removed from California’s lifetime registry were certain individuals eligible to
23 receive a Certificate of Rehabilitation pursuant to Penal Code section 4852.01, *et seq.*

24 18. In 2017, the California Legislature passed and the Governor signed SB 384, which
25 significantly reformed California’s lifetime sex offender registry by transforming the registry into a
26 three-tiered system, and eliminating the Certificate of Rehabilitation as the vehicle for relief from
27 the duty to register. (Sen. Bill No. 384 (2017-2018 Reg. Sess.) §§ 1-2.) Specifically, SB 384
28 repealed the prior lifetime registry law set forth in Penal Code section 290, and replaced that section

1 with an entirely new statute setting forth the tiered system. In general, the Tiered Registry Law
2 assigns each Registrant who was convicted as an adult into one of three tiers. Registrants assigned
3 to certain tiers are entitled to petition for termination of their registration requirement after
4 registering for their mandated minimum registration period. Registrants whose tier assignment does
5 not permit such a petition are required to register for life.

6 19. The operative date of the repeal and replacement of Section 290 was January 1, 2021, over
7 three years after the date upon which the Tiered Registry Law was passed. (See Cal. Penal. Code §
8 290, subd. (g) (2017), as amended by SB 384.)¹ Upon information and belief, the operative date of
9 the Tiered Registry Law was delayed for over three years from the date of SB 384's passage at the
10 request of CA DOJ, to provide the agency with adequate time to issue tier assignments, prepare a
11 process for petitioning for termination, and other tasks. Upon information and belief, CA DOJ hired
12 dozens of additional full-time employees to complete these tasks.

13 **Tier Assignments Under the Tiered Registry Law**

14 20. The specific provision of the Tiered Registry Law that governs tier assignments is Penal
15 Code section 290, subdivision (d). Tier assignments are made by reference to the California statute
16 under which the Registrant was convicted (generally described in Section 290(c)), or the California
17 sentencing enhancement or other provision of California law applicable to the Registrant's
18 conviction. The structure of Section 290(d) consists of five paragraphs that each address a different
19 aspect of the tiered system, as follows:

- 20 a. Section 290(d)(1) describes the Registrants assigned to Tier 1, which requires a
21 minimum registration period of 10 years. Section 290(d)(1) assigns Registrants to Tier 1 on
22 the basis of a conviction under specified California statutes described in Section 290(c).
- 23 b. Section 290(d)(2) describes the Registrants assigned to Tier 2, which requires a
24 minimum registration period of 20 years. Section 290(d)(2) assigns Registrants to Tier 2 on
25 the basis of a conviction under specified California statutes described in Section 290(c).
- 26

27 ¹ The operative date provision, subd. (g), was deleted after the effective date by Stats. 2021, ch. 626
28 (A.B.1171), § 25, eff. Jan. 1, 2022.)

1 c. Section 290(d)(3) describes the Registrants assigned to Tier 3. Tier 3 Registrants
2 are, with one exception, “subject to registration for life” and may never petition for
3 termination of their registration requirement. (Cal. Penal Code § 290(d)(3).) Subdivision
4 (d)(3) of Section 290 lists dozens of specific California convictions described in Section
5 289(c) that are expressly assigned to Tier 3 – Lifetime, as well as various additional
6 sentencing enhancements and other California statutes that, if applicable to a Registrants’
7 conviction, result in assignment to Tier 3 – Lifetime. The exception is Registrants convicted
8 of an offense assigned to Tier 1 or Tier 2, but assigned to Tier 3 – Risk Level based upon the
9 results of specified risk assessments. (Cal. Penal Code § 290(d)(3)(D).) Registrants
10 assigned to Tier 3 – Risk Level may petition for termination after 20 years in certain
11 circumstances. (Cal. Penal Code § 290.5(b)(3).)

12 d. Section 290(d)(4) applies to Registrants who were not convicted under California
13 law, but who reside, work, or attend school in California, and who are required to register
14 under California law pursuant to Penal Code section 290.005 for a conviction “in any other
15 court, including any state, federal, or military court” that is equivalent to a California
16 registrable offense. Such persons are assigned to the tier corresponding to the equivalent
17 offense under California law, as determined by CA DOJ or the court.

18 e. Section 290(d)(5) applies to Registrants who are required to register under the Act,
19 but who are placed in a “Tier-to-be-determined” category because their “appropriate tier
20 designation described in this subdivision cannot be immediately ascertained.” Section
21 290(d)(5), which is the subject of this Petition, provides in full:

22 (5)(A) The Department of Justice may place a person described in
23 subdivision (c), or who is otherwise required to register pursuant to the Act,
24 in a tier-to-be-determined category if the appropriate tier designation
25 described in this subdivision cannot be immediately ascertained. An
26 individual placed in this tier-to-be-determined category shall continue to
register in accordance with the Act. The individual shall be given credit
toward the mandated minimum registration period for any period for which
the individual registers.

27 (B) The Department of Justice shall ascertain an individual’s appropriate tier
28 designation as described in this subdivision within 24 months of the
individual’s placement in the tier-to-be-determined category.

1 (Cal. Penal Code § 290(d)(5)(A)-(B).)

2 21. In sum, paragraph 5 of subdivision (d) of Section 290 provides the Department of Justice
3 with 24 months to assign the tiers of Registrants whose tier assignment cannot be “immediately
4 ascertained,” during which time those Registrants are placed in a Tier-to-be-determined category
5 and treated as Tier 2 Registrants.

6 22. Petitioners contend that the 24-month grace period to assign tiers provided in Section
7 290(d)(5) began running upon the operative date of SB 384, January 1, 2021, which means that CA
8 DOJ’s deadline for assigning all Registrants to their appropriate tier is December 31, 2022. It
9 should be noted that CA DOJ’s 24-month grace period to assign tiers did not begin to run on July 1,
10 2021, which is the first day upon which eligible Registrants may file petitions for termination of
11 registration pursuant to Penal Code section 290.5(a)(1). That is because Section 290.5(a)(1)
12 governs the petitioning process, not the matter of tier assignments, which is governed by Section
13 290(d) and the mandatory tier assignment deadline set forth in Section 290(d)(5)(B).

14 23. Petitioners contend that the December 31, 2022 deadline is mandatory because of the use of
15 the word “shall” in Section 290(d)(5)(B). The mandatory deadline of December 31, 2022 is
16 warranted because the Legislature provided CA DOJ with over five years to assign Registrants to
17 tiers, when measured from the date of SB 384’s passage in 2017. Furthermore, as pleaded below,
18 Registrants throughout California are harmed each day they lack a tier assignment.

19 **CA DOJ Has Failed to Assign All Registrants to Their Appropriate Tier by the December 31,**
20 **2022 Deadline, including Petitioners**

21 24. Attached hereto as Exhibit A is a letter from a CA DOJ official dated November 15, 2022, in
22 response to a Public Records Act Request, addressing the status of tier assignments. In Exhibit A,
23 CA DOJ discloses that, as of November 8, 2022, there were 101,366 individuals required to register
24 in California pursuant to the Act, of whom 12,438 are assigned to the Tier-to-be-Determined
25 category, representing 12.27% of the total population of California Registrants.

26 25. Upon information and belief, CA DOJ has not completed the tier assignments for all 12,438
27 Registrants between November 8, 2022 and December 31, 2022, many of whom are ACSOL
28 members.

1 **CA DOJ’s Failure to Assign Tiers Has Prevented Registrants from Petitioning for**
2 **Termination of Their Registration Requirement Despite Their Eligibility to Petition**

3 26. CA DOJ’s standard tier designation letter states without citation, “You may not petition for
4 termination of your sex offender registration requirements until the DOJ has designated your tier
5 level.” (Exh. B.)²

6 27. In November 2021, Petitioner John Doe #1 filed a petition to terminate his sex offender
7 registration in the Superior Court of California, County of San Diego. The District Attorney for the
8 County of San Diego objected to that petition, and requested that the petition be summarily denied
9 on the ground that “[the] Petition is premature, tier has not been determined by DOJ. Per PC
10 290(d)(5)(A) and (B) must continue to register.” The petition was withdrawn prior to ruling.

11 28. Upon information and belief, the DOJ’s failure to assign Petitioner John Doe #1, and other
12 Registrants who are members of ACSOL, to their tier has prevented them from petitioning for
13 termination of their registration requirement, despite their present eligibility to petition. Upon
14 information and belief, various branches of the Superior Court throughout California have
15 summarily denied petitions on the ground that the petitioner lacked a tier assignment, or was
16 assigned to the Tier-to-be-Determined category. (See Exh. C at p. 1 § (3)h, Order dated 4/5/2022 in
17 *People v. Lindsay*, Superior Court of California, County of San Luis Obispo, Case No. 22PT-00028,
18 summarily denying Petition on the grounds that “The petition indicates that Petitioner has been
19 placed in the tier-to-be-Determined category by the Department of Justice. Pursuant to
20 PC290(d)(5)(A). Petitioner must continue to register pending tier designation.”)

21
22
23 ² Per letter dated February 12, 2021 on file with counsel, CA DOJ confirmed that the quoted
24 prohibition on petitioning while in the Tier-to-be-Determined category would be removed from tier
25 level designation letters, as well as from CA DOJ’s Frequently Asked Questions” publication
26 regarding the tiered registry, available at <https://oag.ca.gov/sites/all/files/agweb/pdfs/csor/registrant-faqs.pdf>. However, CA DOJ indicated its disagreement with Petitioners’ interpretation of the Tiered
27 Registry Law and has not formally stated that Registrants in the Tier-to-be-Determined category are
28 eligible to petition for termination of their registration obligation. To Petitioner’s knowledge, this
remains an issue of first impression in the appellate courts of California.

1 29. Petitioners contend that neither Section 290(d)(5), nor any other provision of law, prohibits a
2 Registrant from petitioning for termination of sex offender registration while in the Tier-to-be-
3 Determined category, because the criteria for petitioning are set forth in Penal Code section
4 290.5(a)(1), and a tier assignment is not among those criteria. In addition, there is no sound reason
5 for preventing a person such as Petitioner Lindsay from petitioning when his tier assignment can be
6 immediately ascertained from court records.

7 **EQUITY AND IRREPARABLE INJURY**

8 30. Petitioners reallege and incorporate herein, as though fully set forth, each and every, all and
9 inclusively, paragraphs 1 through 29.

10 31. Mandamus relief is warranted in this action due to Respondent's failure to comply with his
11 ministerial duty to assign all Registrants to a tier by the deadline of December 31, 2022.
12 Respondent's actions have caused, are causing, and will continue to cause immediate and
13 irreparable harm to Petitioners and other Registrants in the Tier-to-be-Determined category by
14 preventing them from petitioning for termination of their registration requirement, and/or subjecting
15 them to greater degree of public disclosure on the Megan's Law Website and elsewhere than they
16 would otherwise be subject when assigned to their proper tier, thereby exposing such Registrants to
17 the attendant detriments to health, livelihood, and safety, for longer a period longer or to a greater
18 degree than that required by law.

19 32. There are no plain, adequate, complete, or speedy alternative remedies available to redress
20 the violations of law committed by Respondent in this action, nor are there any available and non-
21 futile administrative remedies available to redress the violations of law committed by Respondent.
22 Damages are not adequate to protect Petitioners from the continuing effects of Respondent's
23 violations of the law and from Respondent's failure to carry out their duty under the law in
24 compliance with the law. (Cal. Civ. Proc. Code § 1086.)

25 **FIRST CLAIM FOR RELIEF**

26 **(Mandamus – Cal. Civ. Proc. Code § 1085)**

27 33. Petitioners reallege and incorporate herein, as though fully set forth, each and every, all and
28 inclusively, paragraphs 1 through 32.

1 34. California’s tiered sex offender registry law took effect on January 1, 2021. Pursuant to
2 California Penal Code section 290(d)(5)(B), Respondent, as well as his deputies, officials, officers,
3 agents, and employees within CA DOJ, has a clear and present ministerial duty to assign all persons
4 to Tier 1, Tier 2, Tier 3 – Risk Level, or Tier 3- Lifetime within 24 months, or by December 31,
5 2022.

6 35. Petitioners are beneficially interested in Respondent’s performance of his ministerial duties
7 as pleaded herein, and are suffering due to Respondent’s failure to perform his ministerial duties.

8 36. The injuries that Petitioners and other similarly situated Registrants are suffering and will
9 suffer as a result of the actions of Respondent, as well as his deputies, officials, officers, agents, and
10 employees, are severe, irreparable, and ongoing, and there is no plain, adequate, complete, or
11 speedy alternative remedies available to redress the violations of law committed by Respondent in
12 this action, nor are there any available and non-futile administrative remedies available to redress
13 the violations of law committed by Respondent. Damages are not adequate to protect Petitioner and
14 other similarly situated Registrants from the continuing effects of Respondent’s violations of the
15 law, from Respondents’ abuse of his discretion under the law, and from Respondent’s failure to
16 carry out his duty as required by law. Therefore, immediate mandamus relief is necessary to halt
17 and prevent further occurrence of these ongoing unlawful acts as well as the infliction of irreparable
18 harm to Petitioner and other similarly situated Registrants.

19 **SECOND CLAIM FOR RELIEF**

20 **(Declaratory Judgment – Cal. Civ. Proc. Code § 1060)**

21 37. Petitioners reallege and incorporate herein, as though fully set forth, each and every, all and
22 inclusively, paragraphs 1 through 36.

23 38. As set forth in this Petition, there is an actual controversy among the parties regarding the
24 interpretation and effect of Penal Code sections 290 and 290.5. Petitioners therefore seek a
25 declaration of the parties’ respective rights and duties under that statute. In particular, Petitioners
26 seek a judgment declaring that assignment to a tier by CA DOJ is not a condition for eligibility for
27 petitioning for termination of the registration requirement pursuant to California Penal Code section
28 290.5, and that Registrants are eligible to petition for termination even when placed in the Tier-to-

1 be-Determined category, when the record discloses that they have served the mandated minimum
2 registration period for their appropriate tier.

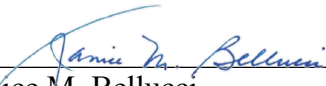
3 **PRAYER FOR RELIEF**

4 WHEREFORE, Petitioners pray for judgment against Respondent Rob Bonta, as follows:

- 5 A. That the Court issue a peremptory writ of mandate directing Respondent to comply with
6 their ministerial duty under California Penal Code section 290(d)(5) by immediately
7 assigning all Registrants to their appropriate tier;
- 8 B. For a judgment declaring that assignment to a tier by CA DOJ is not a condition for
9 eligibility for petitioning for termination of the registration requirement pursuant to
10 California Penal Code section 290.5, and that Registrants are eligible to petition for
11 termination even when placed in the Tier-to-be-Determined category, when the record
12 discloses that they have served the mandated minimum registration period for their
13 appropriate tier;
- 14 C. That Petitioners recover from Respondent all of the Petitioners' reasonable attorney fees,
15 costs, and expenses of this litigation; and
- 16 D. For such other and further relief as the Court deems just and proper.

17
18 Dated: January 5, 2023

LAW OFFICE OF JANICE M. BELLUCCI

19
20 By: 
21 Janice M. Bellucci
22 Attorney for Petitioners
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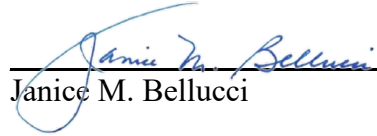
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VERIFICATION

I, Janice M. Bellucci, have read this PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF in the matter of *Alliance for Constitutional Sex Offense Laws, Inc., et al. v. Rob Bonta*. I am the Executive Director of Petitioner Alliance for Constitutional Sex Offense Laws, Inc. and make this declaration on behalf of that entity. In addition, I am counsel of record for Petitioners John Doe #1 and John Doe #2 in this action. Pursuant to Code of Civil Procedure section 446, I make this verification on behalf of Petitioners John Doe #1 and John Doe #2 because They reside in San Diego County and Los Angeles County, respectively, while my office is in the City of Sacramento. Unless otherwise noted, the facts alleged therein are within my personal knowledge and I know these facts to be true. As to the remainder of the Petition, I am informed, and do believe, that the matters therein are true, and on that ground allege that the matters stated therein are true.

Executed January 5, 2023, in Sacramento, California. I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

By:



Janice M. Bellucci

EXHIBIT A



1300 I STREET, SUITE 125
P.O. BOX 944255
SACRAMENTO, CA 94244-2550

Public: (916) 445-9555
Telephone: (916) 210-3356
Facsimile: (916) 227-4345
E-Mail: Brian.Segal@doj.ca.gov

November 15, 2022

Redacted

Received via email
Redacted

RE: Public Records Act Request

Dear Redacted ,

The California Department of Justice (CA DOJ) has received and reviewed your October 31, 2022 request for records under the California Public Records Act (PRA). Please find responses to your requests, below. Please note, these figures solely represent the data within the California Sex and Arson Registry (CSAR) database as of November 8, 2022 and may change daily. Additionally, petitioning data not reported to CA DOJ by law enforcement or the courts will not be reflected in this data. Further, any modifications to registrant tier placement by judicial ruling, stipulation, or other proceedings, not reported to CA DOJ, will not be reflected in this data. Please feel free to contact my office at 916-210-3356 for any clarification on these points.

You requested:

1. "the number of registrants by tier level" (active and incarcerated in California)

Totals as of November 8, 2022, in CSAR:

Tier 1: **16459**
Tier 2: **21948**
Tier 3: **48631**
Tier 3 Risk Assessment Level: **1164**
Tier 1 Juvenile: **30**
Tier 2 Juvenile: **696**
Tier to be Determined (TBD): **12438**

2. "the number of registrants still pending tier designation" (active and incarcerated in California)

Please see total above.

November 15, 2022

Page 2

3. “the number of petitions for relief from registration opposed by district attorneys”

CA DOJ does not compile this information.

Please note again, these totals only reflect data and dispositions that have been submitted or transmitted to CA DOJ. The difference in totals between the petitions received by CA DOJ and the totals for petitions granted/denied may be because the petitions are still pending in court, or the disposition has not been submitted or transmitted to CA DOJ.

Sincerely,

Brian Segal Digitally signed by Brian Segal
Date: 2022.11.15 14:06:19
-08'00'

BRIAN A. SEGAL
Deputy Attorney General

For **ROB BONTA**
Attorney General

BAS:

SA2011303012

EXHIBIT B

XAVIER BECERRA
Attorney General

State of California
DEPARTMENT OF JUSTICE



VIOLENT CRIME INFORMATION CENTER
CALIFORNIA SEX OFFENDER REGISTRY
P.O. Box 903387
SACRAMENTO, CA 94203-3870
(916) 210-3113
Facsimile (916) 227-4345

January 5, 2021

Redacted

DOB: Redacted
CII:
FCN:

RE: California Sex Offender Registrant Tier Level Designation

Dear Redacted :

The California Department of Justice (DOJ) has reviewed your requirement to register as a sex offender in California pursuant to the Sex Offender Registration Act (California Penal Code sections 290 to 290.024, inclusive).

The DOJ has designated you as: **Tier-to-be-Determined**

The DOJ cannot immediately ascertain your tier level designation. You have been placed in a Tier-to-be-Determined category pursuant to California Penal Code section 290(d)(5)(A). You are required to continue registering as a sex offender.

Pursuant to California Penal Code section 290(d)(5)(B), the DOJ shall ascertain your tier level designation within twenty-four (24) months of your placement in the Tier-to-be-Determined category.

You may not petition for termination of your sex offender registration requirements until the DOJ has designated your tier level.

The DOJ cannot provide legal assistance. If assistance is required, please consult a public defender's office or a private attorney. If you have questions regarding tiered registration, you may access registrant Frequently Asked Questions, available on the Attorney General's website at www.oag.ca.gov under the Sex Offender Registry program. For copies of the petition form(s), please contact the juvenile court or superior court in the county in which you reside or are transient.

If you would like to request a review of your criminal history record, please contact the DOJ Record Review Unit at (916) 227-3835. If you have any questions concerning this letter, please contact the California Sex Offender Registry at (916) 210-3113.

EXHIBIT C

CR-418

Order on Petition to Terminate Sex Offender Registration (Pen. Code, § 290.5)

Clerk stamps date here when form is filed.

Electronically

FILED:04/13/2022

San Luis Obispo Superior Court

By: Morasci, Casey

Fill in court name and street address:

Superior Court of California, County of San Luis Obispo 40410
Criminal Branch
1050 Monterey Street
Rm 220
San Luis Obispo, CA 93408

Court fills in case number when form is filed.

Case Number:

22PT-00028

① Petitioner's Name: FRANKLIN UDALL LINDSAY
First Middle Last

Birthdate: 01/05/1953 CSAR Petition No.: PET00003679
(mm/dd/yyyy)

Name of attorney representing petitioner (if any): Janice M. Bellucci

Mailing address: 2110 K Street
Street

Sacramento CA 95816
City State Zip

E-mail: JMBellucci@aol.com

② The court **GRANTS** the petition to terminate the sex offender registration requirement under Penal Code section 290 et seq.

③ The court **SUMMARILY DENIES** the petition to terminate the sex offender registration requirement because (check all that apply and state reasons for summary denial):

a. Petitioner has not fulfilled the filing and service requirements of Penal Code section 290.5 because:

b. There are pending charges against petitioner that could extend the time to complete the registration requirements of the tier or change petitioner's tier status:

c. Petitioner is in custody or on parole, probation, or supervised release:

d. Petitioner does not qualify for termination because petitioner is in Tier 3 as a lifetime registrant and does not fall under the risk-level exception.

e. Petitioner is in Tier 1 or Tier 2 and has not met the mandatory minimum registration period for that tier.

f. Petitioner is in Tier 2 and has not met the following criteria for a 10-year registration exception in Penal Code section 290.5(b)(1) and (2):

g. Petitioner is in Tier 3 solely on the basis of a risk assessment level and has not met the following criteria for a 20-year registration exception in Penal Code section 290.5(b)(3):

h. Other: The petition indicates that Petitioner has been placed in the tier-to-be-determined category by the Department of Justice. Pursuant to PC290(d)(5)(A), Petitioner must continue to register pending tier designation.

This is a Court Order.



FEB 14 2022

Case Number:

22PT-00028

- ④ After hearing, the court **DENIES** the petition to terminate the adult sex offender registration requirement because the court finds that (*check all that apply*):
- a. Petitioner has not met the requirements of Penal Code section 290(e).
- b. Community safety would be significantly enhanced by the petitioner's continued registration. The court's findings are (*select one*): stated orally on the record set forth below:

(1) **For Tier 1 and Tier 2 denials:** Petitioner may not file another petition for termination for _____ years (*must be between 1 to 5 years*) from the date of denial, for the following reasons:

(2) **For Tier 2 denials (10-year registration exception):** Petitioner may not file another petition for termination for _____ year(s) (*must be at least 1 year*) from the date of denial.

(3) **For Tier 3 denials (based on risk level):** Petitioner may not file another petition for termination for _____ years (*must be at least 3 years*) from the date of denial.

Date: _____ April 13, 2022



Signature of Judicial Officer

To the court: Notify the Department of Justice, California Sex Offender Registry, when a petition for termination from the registry is granted, denied, or summarily denied. If the petition is denied after hearing, the court must also state the time period after which the person can file a new petition for termination. The court may notify the department through electronic reporting or by mail (California Sex Offender Registry, P.O. Box 903387, Sacramento, CA 94203-3780).

I certify that this is a correct copy of the original on file with the Clerk of Superior Court of California, County of San Luis Obispo. Attest my hand and seal of said court on

Date April 14, 2022
by, Morasci, Casey, Deputy Clerk
Court Executive Officer Michael Powell



This is a Court Order.