

APR 22 2011

No. 09-1233

IN THE  
**Supreme Court of the United States**

GOVERNOR EDMUND G. BROWN, JR., *et al.*,  
*Appellants,*

v.

MARCIANO PLATA AND RALPH COLEMAN, *et al.*,  
*Appellees.*

**Appeal from the United States District Courts  
for the Eastern District of California and  
the Northern District of California**

**APPELLANTS' SUPPLEMENTAL BRIEF  
DESCRIBING POST-ARGUMENT  
LEGISLATIVE DEVELOPMENTS**

KAMALA D. HARRIS  
ATTORNEY GENERAL OF  
CALIFORNIA  
MANUEL M. MEDEIROS  
STATE SOLICITOR GENERAL  
JONATHAN L. WOLFF  
ROCHELLE C. EAST  
SENIOR ASSISTANT  
ATTORNEYS GENERAL  
KYLE A. LEWIS  
DANIELLE F. O'BANNON  
DEPUTY ATTORNEYS  
GENERAL  
455 Golden Gate Avenue  
Suite 11000  
San Francisco, CA 94102-7004  
(415) 703-5500

CARTER G. PHILLIPS\*  
EAMON P. JOYCE  
SIDLEY AUSTIN LLP  
1501 K Street, N.W.  
Washington, DC 20005  
(202) 736-8000  
cphillips@sidley.com

JERROLD C. SCHAEFER  
PAUL B. MELLO  
S. ANNE JOHNSON  
SAMANTHA D. WOLFF  
RENJU P. JACOB  
HANSON BRIDGETT LLP  
425 Market Street  
26th Floor  
San Francisco, CA 94105  
(415) 777-3200

*Counsel for Appellants*

April 19, 2011

\*Counsel of Record

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**MOTION FOR LEAVE TO FILE A  
SUPPLEMENTAL BRIEF DESCRIBING POST-  
ARGUMENT LEGISLATIVE DEVELOPMENTS**

Pursuant to Supreme Court Rules 25.7 and 25.6, the State moves for leave to file a Supplemental Brief describing legislation enacted post-argument. As the Supplemental Brief details, California Assembly Bill 109 will shift responsibility from the State to the counties for incarcerating certain felons and monitoring certain offenders on parole or supervised release.

Respectfully submitted,

KAMALA D. HARRIS  
ATTORNEY GENERAL OF  
CALIFORNIA  
MANUEL M. MEDEIROS  
STATE SOLICITOR GENERAL  
JONATHAN L. WOLFF  
ROCHELLE C. EAST  
SENIOR ASSISTANT  
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7004  
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HANSON BRIDGETT LLP  
425 Market Street  
26th Floor  
San Francisco, CA 94105  
(415) 777-3200

*Counsel for Appellants*

April 22, 2011

\*Counsel of Record

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**APPELLANTS' SUPPLEMENTAL BRIEF  
DESCRIBING POST-ARGUMENT  
LEGISLATIVE DEVELOPMENTS**

As a courtesy to the Court, the State writes to apprise the Court that on April 4, 2011, Governor Brown<sup>1</sup> signed into law Assembly Bill (A.B.) 109, the "2011 Realignment Legislation addressing public safety." A.B. 109, 2011-12 Sess., § 1 (Cal. 2011).<sup>2</sup> Once funded, see *id.* § 636, A.B. 109 will, *inter alia*:

(1) Generally make certain felonies punishable by imprisonment in county jail instead of in California Department of Corrections and Rehabilitation (CDCR) facilities. See A.B. 109, sec. 450, § 1170(h)(1) ("a felony punishable pursuant to this subdivision where the term is not specified in the underlying offense shall be punishable by a term of imprisonment *in a county jail* for 16 months, or two or three years") (emphasis added).

(2) Shift primary responsibility for monitoring felons on parole and supervised release from the State to the counties. AB 109, § 479, tit. 2.05; *id.*, sec. 479, tit. 2.05, § 3451(a) (categories of felony offenders subject to community supervision); see also *id.* § 3451(b) (persons whom CDCR will still supervise).

(3) Generally require that individuals returned to custody for violating their conditions of parole "serve any custody term in county jail." A.B. 109, sec. 470, § 3000.09(e). Thus, thousands of non-violent felony

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<sup>1</sup> Consistent with Supreme Court Rule 35.3, Governor Brown has been substituted in the caption for his predecessor Governor Schwarzenegger.

<sup>2</sup> Available at [http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab\\_0101-0150/ab\\_109\\_bill\\_20110317\\_amended\\_sen\\_v97.pdf](http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0101-0150/ab_109_bill_20110317_amended_sen_v97.pdf).

offenders arrested for parole violations will not be eligible to be housed in CDCR facilities. *Governor's Budget Summary 2011-12*, at 23 (Jan. 10, 2011).<sup>3</sup>

(4) Expand "good time credits" by allowing certain categories of prisoners to earn four days of credit toward their sentence for every two days served. A.B. 109, sec. 482, § 4019.

Respectfully submitted,

KAMALA D. HARRIS  
ATTORNEY GENERAL OF  
CALIFORNIA  
MANUEL M. MEDEIROS  
STATE SOLICITOR GENERAL  
JONATHAN L. WOLFF  
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7004  
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SIDLEY AUSTIN LLP  
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SAMANTHA D. WOLFF  
RENJU P. JACOB  
HANSON BRIDGETT LLP  
425 Market Street  
26th Floor  
San Francisco, CA 94105  
(415) 777-3200

*Counsel for Appellants*

April 19, 2010

\*Counsel of Record

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<sup>3</sup> Available at <http://www.ebudget.ca.gov/pdf/BudgetSummary/Realignment.pdf>.