

(Add your Name) CDC NO. _____
(Add Current Housing Address) _____

Petitioner In Pro Per
(Add your Name)

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF (Add County Name) _____

THE PEOPLE OF CALIFORNIA,)	Superior Ct. No.
)	
Plaintiff,)	MOTION FOR FRANKLIN
)	HEARING; REQUEST FOR
v.)	APPOINTMENT OF COUNSEL
)	[Pen. Code § 1203.01; Code
(Add your Name) ,)	Civ. Proc. § 187; <i>In re Cook</i> (2019)
)	7 Cal.5th 439]
Defendant.)	
_____)	

TO THE JUDGE OF THE (Add County) _____ SUPERIOR
COURT AND THE (Add County) _____ DISTRICT ATTORNEY:

Defendant (Add your Name) (CDC No. _____) moves
under authority of *In re Cook* (2019) 7 Cal.5th, 439, and Penal Code
section 1203.01 for a proceeding to be held in which defendant may

1 preserve mitigating evidence of youth as described in *People v. Franklin*
2 (2016) 63 Cal.4th 261 and *In re Cook, supra*, for purposes of defendant's
3 possible youth offender parole hearing. (Pen. Code, § 3051)
4

5 DATED:
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7 Respectfully submitted,
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10 _____
11 (Add your Name) , In Pro Per
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ARGUMENT

(Add your Name) **QUALIFIES FOR A *FRANKLIN* HEARING
BECAUSE DOE COMMITTED THE CHARGED OFFENSE
WHEN HE WAS (Add Age at time of offense) _____ YEARS
OLD**

A. Introduction

(Add your Name) was born on (Add birthdate)_____.

The incident occurred on (Add date of incident) _____. (Add
your Name) was (Add age at time of offense)___ years, ____months,
and ___days old at the time of the offense. (Add your Name) is serving
a (Add sentence)_____ to life sentence that entitles him to a youth
offender parole hearing. (Pen. Code, § 3051.)

(Add your Name) had no opportunity at his sentencing hearing to
make a record of mitigating evidence to support a future application for
parole. Case and statutory law entitle Doe to a *Franklin* hearing.
(*People v. Franklin* (2016) 63 Cal.4th 281, 284.)

In re Cook (2019) 7 Cal.5th, 439, and Penal Code section 1203.01
now authorize a proceeding to be held in which Doe may preserve
mitigating evidence of youth as described in *People v. Franklin* (2016)
63 Cal.4th 261 and *In re Cook, supra*, for a defendant's youth offender

1 parole hearing. (Pen. Code, § 3051)

2
3 **B. The *Franklin* Hearing**

4 Penal Code section 3051, which our Supreme Court has
5 characterized as "the heart of Senate Bill No. 260," requires the Board
6 of Parole Hearings to "conduct a 'youth offender parole hearing' during
7 the 15th, 20th, or 25th year of a juvenile offender's incarceration.
8 [Citation.]. . . A juvenile offender whose controlling offense carries a
9 term of 25 years to life or greater is 'eligible for release on parole by the
10 board during his or her 25th year of incarceration at a youth offender
11 parole hearing, unless previously released or entitled to an earlier
12 parole consideration hearing pursuant to other statutory provisions."
13 (*Franklin*, 63 Cal.4th at p. 277.)

14 Section 3051, subdivision (f) describes various types of evidence
15 the Board may consider at a youth offender parole hearing. Subdivision
16 (f)(1) provides, in relevant part: "In assessing growth and maturity,
17 psychological evaluations and risk assessment instruments, if used by
18 the board, . . . shall take into consideration the diminished culpability of
19 juveniles as compared to that of adults, the hallmark features of youth,
20 and any subsequent growth and increased maturity of the individual."
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1 Subdivision (f)(2) further provides that "Family members, friends,
2 school personnel, faith leaders, and representatives from
3 community-based organizations with knowledge about the individual
4 before the crime or his or her growth and maturity since the time of the
5 crime may submit statements for review by the board."
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7
8 Section 4801 further provides that when reviewing the parole
9 suitability of a prisoner who was 25 years of age or younger at the time
10 of the offense, the Board must "give great weight to the diminished
11 culpability of juveniles as compared to adults, the hallmark features of
12 youth, and any subsequent growth and increased maturity of the
13 prisoner in accordance with relevant case law." (§ 4801, subd. (c).)
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17 **C. Doe Qualifies for a *Franklin* Hearing**

18 On (Add sentencing date)_____, the trial judge
19 sentenced (Add age at sentencing)_____ year old (Add your Name) to
20 (Add sentence)_____ years to life in state prison. (Add your Name)
21 had no "Second Strike" or "Third Strike" sentence (Penal Code section
22 667, subds. (b)-(i)). (Add your Name) sentence did not include a
23 five-year prior serious felony enhancement (Penal Code section 667,
24 subd. (a)) nor a "One Strike" sentence for a sex offense subject to
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1 “Jessica’s Law” (Penal Code section 667.61). (Add your Name) sentence
2 did not include a term of “life without the possibility of parole” (LWOP).

3
4 (Add your Name) has not committed a crime since he was sentenced.

5 At his (Add sentencing date)_____ sentencing, (Add your
6 Name) had no chance to present mitigation evidence for use at a future
7 youth offender parole hearing. (Add your Name) did not have an
8 opportunity or motivation at sentencing to present sufficient
9 information about how (Add your Name) youth and other
10 circumstances during the offense affected (Add your Name) actions and
11 other mitigating evidence that would help (Add your Name) when he
12 became eligible for parole.
13

14 (Add your Name) should be granted the chance to supplement the
15 record with information relevant to his eventual youth offender parole
16 hearing. (*Rodriguez, supra*, 4 Cal.5th at pp. 1131-1132; *Franklin, supra*,
17 63 Cal.4th at p. 284.) "In so doing, the trial court may exercise its
18 discretion to conduct this process efficiently, ensuring that the
19 information introduced is relevant, noncumulative, and otherwise in
20 accord with the governing rules, statutes, and regulations." (*Rodriguez*,
21 at p. 1132.)
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CONCLUSION

(Add your Name) prays for the Court to grant his motion under Penal Code 1203.01. (Add your Name) also respectfully requests that counsel be appointed for the *Franklin* hearing/1203.01 motion.

DATED:

Respectfully submitted,

(Add your Name), In Pro Per

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CERTIFICATE OF SERVICE

I certify: that on (Add date of mailing) _____, I served the:
MOTION FOR FRANKLIN HEARING; REQUEST FOR
APPOINTMENT OF COUNSEL by depositing a copy, enclosed in a
separate, sealed envelope, with postage fully prepaid, in the United
States mail at Los Angeles, County of Los Angeles, California, each of
which envelopes was addressed as follows:

(Add address of Court where you were sentenced)

(Add address for District Attorney's Office)

I declare under penalty of perjury under the laws of the State of
California that the foregoing is true and correct.

Dated:

(Add your Name), In Pro Per