

ELECTRONICALLY FILED

Superior Court of California,
County of Alameda

09/11/2024 at 11:04:17 AM

By: Milagros Cortez,
Deputy Clerk

1 Yaman Salahi (SBN 288752)
2 ysalahi@edelson.com
3 EDELSON PC
4 150 California Street, 18th Floor
5 San Francisco, California 94111
6 Tel: 415.212.9300
7 Fax: 415.373.9435

8 Chesa Boudin (SBN 284577)
9 chesa@berkeley.edu
10 Rio Scharf (SBN 337826)
11 rioscharf@berkeley.edu
12 CRIMINAL LAW & JUSTICE CENTER
13 University of California, Berkeley, School of Law
14 Law Building
15 Berkeley, CA 94720-7200
16 Tel: 510.643.1367

Counsel for Plaintiffs and the Proposed Class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA**

15 COLIN SCHOLL AND JOHN VAESAU,

Plaintiffs

17 v.

18 CALIFORNIA DEPARTMENT OF
19 CORRECTIONS AND
20 REHABILITATION,

Defendant.

Case No. **24CV091030**

**CLASS ACTION COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

**[Code. Civ. Proc. §§ 1085, 1060; Gov.
Code § 11350]**

1 **I. INTRODUCTION**

2 1. Every year, more than 30,000 people complete California state prison
3 sentences and are released back into their communities. Formerly incarcerated people
4 have the chance to close a difficult chapter when they leave the prison gates, but they
5 also face new and sometimes equally difficult challenges upon reentry. Successful
6 reentry benefits both formerly incarcerated people and the entire community by
7 enhancing public safety and reducing recidivism. In recognition of this, the state of
8 California has charged the California Department of Corrections and Rehabilitation
9 (“CDCR” or “Defendant”) with coordinating and implementing some discrete reentry
10 services. As part of this responsibility, the state Legislature requires CDCR to provide
11 \$200 of “gate money” to most people released from prison as a small but vital aid as
12 they make their way home.

13 2. Plaintiffs file this action because CDCR routinely neglects to fulfill this
14 statutory obligation even though the Legislature appropriates money to CDCR for this
15 very purpose. CDCR openly acknowledges its non-compliance with state law. In
16 1994, the department promulgated a regulation that violates the state law that
17 guarantees gate money. Since 1994, CDCR has released approximately 2.5 million
18 people from prison, according to the U.S. Department of Justice’s Bureau of Justice
19 Statistics. Assuming that CDCR was following its own unlawful regulation during
20 this time, the Department has shortchanged well over one million people who were
21 entitled to that gate money. In doing so, CDCR contravenes state law, undermines
22 rehabilitation, and jeopardizes public safety. Accordingly, Plaintiffs bring this action
23 to declare unlawful the Department’s policy of withholding gate money from those
24 entitled to it. They seek to remedy CDCR’s abdication of its legal duty by requiring it
25 to reimburse individuals from whom funds were illegally withheld.

26 3. CDCR’s failure to pay gate money harms people in the most vulnerable
27 moment of their lives. For many incarcerated people, release from prison marks the
28

1 start of a sort of shadow sentence that extends far beyond their official punishment.
2 People released from prison face widespread stigmatization and the challenge of
3 navigating the more than 3,000 state laws that constrain formerly incarcerated
4 people's choices and opportunities. Human Impact Partners, *Rehabilitating*
5 *Corrections in California: The Health Impacts of Proposition 47*, at 26–27 (Sept. 2014),
6 <https://perma.cc/4NET-R2WK>. One result of these obstacles is that people recently
7 released from prison have an unemployment rate of 27%, a figure that exceeds the
8 unemployment rate during the Great Depression. Lucius Couloute & Daniel Kopf,
9 *Out of Prison & Out of Work: Unemployment among formerly incarcerated people*,
10 PRISON POLICY INITIATIVE (July 2018), <https://perma.cc/9TZ9-4ANY>. Those released
11 from prison are also 10 times more likely to be unhoused than the general population.
12 Lucius Couloute, *Nowhere to Go: Homelessness among formerly incarcerated people*
13 PRISON POLICY INITIATIVE (Aug. 2018), <https://perma.cc/78C3-WC5E>. For many low-
14 income people and people of color released from prison, these reentry challenges are
15 compounded by the added difficulties attendant to poverty and racial discrimination.

16 4. Two hundred dollars is a small sum, but it is not insignificant. Research
17 emphasizes the importance of the first 72 hours after release as a period that sets the
18 stage for people's long-term reentry success. Stanford Criminal Justice Ctr., *The First*
19 *72 Hours of Re-Entry: Seizing the Moment of Release* (Sept. 12, 2008),
20 <https://perma.cc/H6UV-LW6E>. Gate money allows people to find a full meal and a
21 safe bed on their first day and night out of prison. It enhances public safety by
22 keeping people out of desperate or vulnerable circumstances in that crucial period
23 after release.

24 5. In recognition of these benefits, the California Legislature voted more
25 than fifty years ago to provide people with \$200 of gate money upon their release from
26 prison. After receiving bipartisan and nearly unanimous support in the Legislature,
27 the gate money bill was signed into law by then-Governor Ronald Reagan. *See*
28

1 Assembly Bill 476 (1973), codified at Cal. Pen. Code § 2713.1; S. JOURNAL, 1973-
2 1974 Reg. Sess., at 6450 (Cal. 1973); ASSEMB. JOURNAL, 1973-1974 Reg. Sess., at
3 8869-70 (Cal. 1973); Act of Sept. 14, 1973, ch. 1006, 1973 Cal. Stat. 2000-01.

4 6. The gate money statute, Penal Code § 2713.1, has remained essentially
5 unchanged for half a century. Yet rather than provide each eligible person with the
6 \$200 to which they are entitled, CDCR routinely withholds some or all of the funds
7 based on eligibility criteria of its own making, criteria that violate the plain language
8 of the law. It is CDCR policy, for example, to deduct the cost of clothing and
9 transportation from people’s gate money when individuals who are released do not
10 have other transportation or clothing options, and sometimes even when they do have
11 other options. Cal. Dep’t of Corr. & Rehab., Off. of the Ombudsman, Incarcerated
12 Adults Information: Parole Assistance, <https://perma.cc/4367-7XDB>. These policies
13 are not only unlawful—they are also exceptionally cruel. With these unlawful
14 regulations, CDCR has chosen to target people who do not even have clothes and
15 transportation pre-arranged for them by loved ones, and who are among the most
16 vulnerable people CDCR is tasked with assisting.

17 7. The legislative history of the gate money statute makes clear that CDCR
18 never had the authority to withhold gate money for reasons that are not specified in
19 the statute. When Governor Reagan signed Penal Code § 2713.1 in 1973, he did so
20 over the objection of the Department of Corrections. The Department’s primary
21 objection to the bill was that it fixed the amount of gate money owed to people released
22 from prison, rather than giving CDCR the discretion to decide how much to provide.
23 The Legislature rejected CDCR’s recommendation, as did Governor Reagan, and
24 enacted a law that bound CDCR to provide exactly \$200 of gate money in all but a few
25 circumstances, such as for those who willfully abscond or serve sentences shorter than
26 six months. Accordingly, CDCR’s practice of routinely withholding gate money and
27 applying unlawful and unauthorized deductions violates the law and undermines the
28

1 integrity of the justice system. CDCR, which is charged with incarcerating those who
2 break the law, is itself breaking the law every day.

3 8. Plaintiffs and the Class members they seek to represent have all been
4 released from CDCR custody after serving a sentence of more than six months'
5 incarceration. They served the prison time imposed by the courts, yet CDCR failed to
6 provide them with the gate money they are owed by law. Plaintiffs bring this action to
7 require CDCR to comply with the law by issuing them, and other similarly situated
8 persons, the gate money that the Department is legally required to provide.

9 I. JURISDICTION AND VENUE

10 9. This Court has jurisdiction pursuant to Article VI, Section 10 of the
11 California Constitution and Code of Civil Procedure Section 410.10.

12 10. Venue is proper in this Court pursuant to Code of Civil Procedure §
13 401(1).

14 II. PARTIES

15 A. Plaintiffs/Petitioners

16 11. Plaintiff Colin Scholl is a resident of California. He spent fourteen years
17 in CDCR's custody. On July 21, 2022, CDCR released Scholl from Salinas Valley State
18 Prison. State law obligated CDCR to provide him with \$200 of gate money when
19 releasing him. CDCR did not meet its obligation. Instead, CDCR provided Mr. Scholl
20 with approximately \$70, furnished in the form of a JPay Progress Prepaid Mastercard.
21 CDCR told Mr. Scholl that his card contained only around \$70 because the agency used
22 approximately \$130 of Mr. Scholl's gate money to pay itself for clothing and
23 transportation it chose to give to Mr. Scholl. In giving Mr. Scholl only a fraction of the
24 money it owed him, CDCR violated state law.

25 12. Plaintiff John Vaesau is a resident of California. He spent thirty-three
26 years in CDCR's custody. On or around June 23, 2023, CDCR released Mr. Vaesau
27 from Folsom State Prison to a San Francisco jail pending resentencing. He was
28

1 released from custody on September 8, 2023. State law obligated CDCR to provide Mr.
2 Vaesau with \$200 of gate money when releasing him. CDCR's own policy guidelines
3 acknowledge that people released from prison are entitled to gate money even when
4 they are transferred into the custody of local law enforcement. Cal. Dept. of Corrections
5 & Rehabilitation, Dept. Operations Manual, § 81010.6. Notwithstanding the
6 requirements of the law and the dictates of CDCR's own policy, CDCR did not provide
7 Mr. Vaesau any of the \$200 gate money owed to him. In refusing to provide Mr. Vaesau
8 with gate money, CDCR violated state law.

9 **B. Defendant**

10 13. Defendant California Department of Corrections and Rehabilitation is a
11 state agency created pursuant to the laws of California.

12 **III. STATUTORY BACKGROUND**

13 14. In 1973, the State Assembly unanimously passed Assembly Bill 476 to
14 codify the general requirement that people being released from state prison be given
15 \$200 in gate money. Enrolled Bill Memorandum to Governor, CA Assembly Bill 476
16 (Sept. 25, 1973). AB 476 received broad support in the Senate too, with all but one
17 member voting in support.

18 15. The bill was designed to help people released from prison get started as
19 responsible members of society. Nevertheless, the Department of Corrections opposed
20 the bill and encouraged the Governor to veto it. *See* Enrolled Bill Memorandum to the
21 Governor on Assemb. B. 476, 1973-1974 Reg. Sess. (Sept. 25, 1973); Cal. Dep't of Corr.,
22 Enrolled Bill Report on A.B. 476, (Sept. 24, 1973), accessed in the Governor's
23 Chaptered Bill File for A.B. 476, Reg. Sess. 1973-74. Over the Department's
24 objections, the Legislature approved the bill and Governor Ronald Regan signed it into
25 law as Penal Code § 2713.1.

26 16. Since 1973, Penal Code § 2713.1 has provided that, "each prisoner upon
27 his release shall be paid the sum of two hundred dollars (\$200)." Pen. Code § 2713.1.
28

1 The statute only authorizes CDCR to implement narrow exceptions to this general
2 rule. Specifically, it provides that,

3 [t]he department may prescribe rules and regulations

4 (a) to limit or eliminate any payments provided for in this section to prisoners
5 who have not served for at least six consecutive months prior to their release
6 in instances where the department determines that such a payment is not
7 necessary for rehabilitation of the prisoner,

8 (b) to establish procedures for the payment of the sum of two hundred dollars
9 (\$200) within the first 60 days of a prisoner's release, and

10 (c) to eliminate any payment provided for in this section to a parolee who upon
11 release has not been paid the entire amount prescribed by this section and
12 who willfully absconds after release on parole, but before the remaining
13 balance of the two hundred dollar (\$200) release funds has been paid.

14 The provisions of this section shall not be applicable if a prisoner is released to
15 the custody of another state or to the custody of the federal government.

16 Penal Code § 2713.1.

17 17. Thus, CDCR is obligated to provide gate money to everyone released from
18 prison, other than those released to the custody of another state or the federal
19 government. The law dictates no other exceptions, and only grants CDCR the
20 discretion to withhold funds from people who abscond from the jurisdiction or who
21 serve less than a six-month sentence. In the case of those with sentences of less than
22 six-months, CDCR can provide less than \$200 only "in instances where the
23 department determines that such a payment is not necessary for rehabilitation of the
24 prisoner." Penal Code § 2713.1.

25 18. Despite this clear statutory mandate, CDCR has promulgated policies
26 and regulations directing its employees to give people less than the statutorily-
27 required \$200. For example, in direct contravention of Penal Code § 2713.1, CDCR
28 promulgated a regulation that directs its employees to deduct the cost of release
apparel and transportation from people's release money, which results in people

1 receiving far less than the \$200 required by law. 15 Cal. Code Regs. § 3075.2(d). In
2 promulgating this regulation and acting in accordance with it, the Department
3 exceeds its statutory authority by adopting unlawful eligibility criteria. Nowhere in
4 the statute is there a basis for CDCR to deduct clothing or transportation costs from
5 the gate money which CDCR “shall” pay to people being released from prison.

6 19. Indeed, a Court of Appeal has already held that CDCR’s regulation is
7 unlawful, but Defendant has ignored the court’s ruling. In 2008, the Court of Appeal
8 ordered that gate money be paid to an individual from whom CDCR had wrongly
9 withheld it under the regulation. In so doing, the Court wrote: “Because the language
10 of section 2713.1 is clear, it may not be changed by title 15, section 3075.2.” *Sabatasso*
11 *v. Superior Court*, 167 Cal.App.4th 791, 797 (2008). The *Sabatasso* decision made
12 clear that parts of section 3075.2 are contrary to state law and yet, CDCR continues to
13 distribute gate money in accordance with the regulation. The Department’s knowing
14 violations of section 2713.1 have impacted more than a million people, and in doing so
15 have jeopardized their reentry and undermined the safety of all California
16 communities.

17 20. CDCR recognizes, consistent with logic and the legislative history, that
18 gate money is “intended for the rehabilitative purpose of assisting in an
19 inmate/parolee’s reintegration into society.” 15 Cal. Code Regs. 3075.2(d). Yet CDCR
20 undermines this rehabilitative purpose when it unlawfully withholds gate money from
21 people being discharged from its custody, in violation of Penal Code § 2713.1.

22 IV. FACTS

23 21. Every year CDCR releases more than 30,000 people from custody.
24 Though the Department is obligated to provide \$200 to nearly all of them, it routinely
25 fails to do so.

26 22. CDCR’s *ultra vires* approach to gate money causes real harm beyond just
27 the millions of dollars wrongfully withheld from individuals. People who are recently
28

1 released from prison are uniquely vulnerable to homelessness, victimization, and
2 recidivism among other risk factors. The critical transition from incarceration to
3 freedom presents difficult challenges for formerly incarcerated people, for the justice
4 system, and for public safety. The \$200 in gate money which CDCR “shall” provide
5 these individuals can only help to mitigate these risks if it is actually provided, as the
6 law requires.

7 23. Although \$200 cannot buy much in 2024, particularly when it comes to
8 lodging, food, or transportation, gate money is still a critical lifeline for the tens of
9 thousands of people released from prison each year. For many of these people, gate
10 money may mean the difference between sleeping in a bed or on the streets the first
11 night out of detention. It may mean the difference between having a warm meal or
12 confronting the desperation of hunger.

13 24. For Plaintiffs, and the Class they seek to represent, gate money can
14 promote the “rehabilitative purpose” intended by the Legislature, 15 Cal. Code Regs.
15 3075.2(d), but only if CDCR complies with the law.

16 V. CLASS ACTION ALLEGATIONS

17 25. Plaintiffs Colin Scholl and John Vaesau bring this action pursuant to
18 California Code of Civil Procedure § 382 on behalf of themselves and a Class of
19 similarly situated individuals defined as follows:

20 All persons who (a) were released from the custody of the California
21 Department of Corrections or Rehabilitation on or after July 27, 1994
22 after serving a term of incarceration of at least six consecutive months;
23 (b) who were provided less than \$200 by CDCR upon release; and (c) who
24 were not released into the custody of another state or the federal
25 government.

26 Excluded from the Class are: (1) any parolee who was determined to have willfully
27 absconded after release; (2) any Judge or Magistrate presiding over this action and
28 members of their families; (3) Defendant and its officers and directors; (4) Plaintiffs’

1 counsel and Defendant's counsel; and (5) the legal representatives, successors, and
2 assigns of any such excluded persons.

3 **26. Numerosity:** The exact number of Class members is not currently
4 available to Plaintiffs, but it is clear that individual joinder is impracticable. On
5 information and belief, the Class size exceeds hundreds of thousands of individuals.

6 **27. Commonality and Predominance:** There are many questions of law
7 and fact common to the claims of Plaintiffs and the proposed Class, and those
8 questions predominate over any questions that may affect individual members of the
9 Class. Common questions for the Class include, but are not limited to, the following:
10 (a) whether CDCR's regulations, including 15 Cal. Code Regs § 3075.2(d), exceed
11 statutory authority or are otherwise unlawful; (b) whether CDCR has unlawfully
12 withheld the \$200 release money from Plaintiffs and the proposed Class; and (c) the
13 amount which CDCR owes members of the proposed Class.

14 **28. Typicality and Adequate Representation:** Plaintiffs will fairly and
15 adequately represent and protect the interests of the proposed Class, and have
16 retained counsel competent and experienced in complex litigation and class actions.
17 Plaintiffs' claims are representative of the claims of the other members of the proposed
18 Class. They were all denied some or all of their \$200 entitlement after serving a term
19 of six months or more in CDCR's custody. They were injured because of Defendant's
20 unlawful conduct. Plaintiffs have no interests antagonistic to those of the proposed
21 Class, and Defendant has no defenses unique to Plaintiffs. Plaintiffs and their counsel
22 are committed to vigorously prosecuting this action on behalf of the proposed Class
23 and have the resources to do so. Neither Plaintiffs nor their counsel have any interest
24 adverse to the proposed Class.

25 **29. Predominance and Superiority:** Class proceedings are superior to all
26 other available methods for the fair and efficient adjudication of this controversy, as
27 joinder of all members of the Class is impracticable. Individual litigation would not be
28

- 1 (d) Award pre-judgment and post-judgment interest on sums unlawfully
2 withheld from Plaintiffs and members of the proposed Class;
3 (e) Award the payment of attorneys' fees and costs; and,
4 (f) For such other and further relief as the Court deems just and proper.
5

6 Respectfully submitted,

7 Dated: September 11, 2024



8
9 Yaman Salahi (SBN 288752)
10 ysalahi@edelson.com
11 EDELSON PC
12 150 California Street, 18th Floor
13 San Francisco, California 94111
14 Tel: 415.212.9300
15 Fax: 415.373.9435

16 Chesa Boudin (SBN 284577)
17 chesa@berkeley.edu
18 Rio Scharf (SBN 337826)
19 rioscharf@berkeley.edu
20 CRIMINAL LAW & JUSTICE CENTER
21 University of California, Berkeley,
22 School of Law
23 Law Building
24 Berkeley, CA 94720-7200
25 Tel: 510.643.1367

26 *Counsel for Plaintiffs and the Proposed*
27 *Class*
28