



Serving Justice By Improving the Law

Frank Z. Leidman, Esq.
473 Jackson Street, 3rd Floor
San Francisco, CA 94111

Sent via e-mail to: frank@leidmanlaw.com

Re: Resolution 03-12-2007

Dear Frank:

On behalf of the Board of Directors of the California Bar Associations, I regret to inform you that Resolution 03-12-2007 (Prevention of Wrongful Convictions: Anticipated Future Referees Measures), submitted by you on behalf of the Bar Association of San Francisco has been found to be not in compliance with Conference Rules of Operation and Procedure and therefore is being rejected for consideration by this year's Conference.

In pertinent part, Article II, Rule 9 of the Conference Rules of Operation and Procedure provide:

9. Resolution Form: Every resolution shall describe in detail the action proposed. When a resolution proposes a change in the law (either by amending or deleting an existing statute, rule, order or regulation, or by enacting such law for the first time), it shall contain the full text of the proposed amendment or new law, showing the words to be added or deleted.

The Board of Directors has determined that, pursuant to these rules, as your resolution does not describe in detail the proposed action and does not set forth proposed statutory language, the resolution must be rejected.

If you wish to appeal this determination, please advise as soon as possible. Be prepared to submit a written including a statement of reasons and the basis for the appeal. The appeal should not exceed 500 words. You may also want to consider submitting a new resolution in compliance with the organization's late filed or emergency late filed rules.

If you wish to file an appeal, send it in writing, along with your written statement, as soon as possible, but in no event later than noon September 27,

CONFERENCE OF DELEGATES OF CALIFORNIA BAR ASSOCIATIONS
3450 SACRAMENTO STREET, #521 • SAN FRANCISCO, CALIFORNIA • 94118-1949
PHONE: 415-379-3743 • FAX: 415-751-7342
www.cdcba.org
e-mail: execdir@cdcba.org

2007. Prior to September 27, 2007 please advise whether you seek a hearing before the Board or its designated committee. Your appeal must be on behalf of your association. If you seek a hearing, the hearing will be held at the pre-Conference CDCBA Board of Directors meeting on Thursday, September 27, 2007. The meeting will be in the late afternoon at the Anaheim Marriott or the Anaheim Convention Center, exact location to be determined. We will advise you of the approximate time and exact location of your hearing.

Please submit your appeal via e-mail in Adobe PDF, Word or WordPerfect formats.

If you have any questions do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Laura Goldin', with a long horizontal flourish extending to the right.

LAURA GOLDIN
Executive Director

/lg

Enclosure

cc: Timothy Moppin, twmoppin@duanemorris.com
Judy Barrows, jbarrows@sfbar.org

**THIS RESOLUTION HAS BEEN RETURNED TO THE PROPONENT
AS NOT IN COMPLIANCE WITH RULES & PROCEDURES, ARTICLE II, RULE 9**

RESOLUTION 03-12-2007

DIGEST

Prevention of Wrongful Convictions: Anticipated Future Reform Measures

Urges both houses of the Legislature to enact the future recommendations of the California Commission on the Fair Administration of Justice.

RESOLUTIONS COMMITTEE RECOMMENDATION

DISAPPROVE

History:

No similar resolutions found.

Reasons:

This resolution urges both houses of the Legislature to enact the future recommendations of the California Commission on the Fair Administration of Justice. This resolution should be disapproved as it approves recommendations which have yet to be made, much less evaluated.

The California Commission on the Fair Administration of Justice (“Commission”) was established by Senate Resolution No. 44 (2003-2004 Reg. Sess.) to study and review the administration of criminal justice in California, determine the extent to which that process has failed in the past, examine safeguards and improvements, and recommend proposals to ensure that the administration of criminal justice in California is just, fair and accurate. The Commission has conducted hearings and identified factors leading to injustice in California, including misidentification by eyewitnesses and false confessions, which are the subject of Resolution 03-16-2007.

The Conference of Delegates has already stated its support of the work of the Commission and sought its continued funding. (Resolution 09-19-2006.) The Conference has also unanimously supported its recommended reforms on eyewitness identification and custodial interrogation. (Resolution ELF-03-2006.) This resolution, however, seeks to urge the Legislature and the Governor to enact into law recommendations which have yet to be made or even considered. As such, it cannot be approved. (CDCBA Rules, art. II, § 9.)

TEXT OF RESOLUTION

RESOLVED that the Conference of the Delegates of California Bar Associations urges the California Senate and Assembly to incorporate into legislation the reform measures anticipated to be recommended by the California Commission on the Fair Administration of Justice (“CCFAJ”) in 2007 regarding problems with the use of scientific evidence, prosecutorial misconduct, the incompetence of defense counsel, and the fair administration of the death penalty, and to pass such other and additional legislation; and

RESOLVED FURTHER that the Conference of Delegates of California Bar Associations urges the Governor to sign such legislation into law.

PROPONENT: Bar Association of San Francisco

STATEMENT OF REASONS

Existing Law: The California Commission on the Fair Administration of Justice (“CCFAJ”) was established by California State Senate Resolution No. 44 “to study and review the administration of criminal justice in California, determine the extent to which that process has failed in the past,” examine safeguards and improvements, and recommend proposals to ensure that the administration of criminal justice in California is just, fair and accurate.

The CCFAJ has conducted hearings and identified causal factors that most frequently recur in cases where the wrongfully convicted have been exonerated. It has made recommendation in the areas of misidentification by eyewitnesses, false confessions, testimony by in-custody informants, and concerning the DNA testing backlog created by the lack of adequate funding for the testing of DNA collected pursuant to Proposition 69. It has held hearings in 2007 regarding problems with the use of certain types of forensic evidence, and is expected to issue a formal report and recommendation with reforms regarding “junk science.” The CCFAJ is scheduled in 2007 to conduct further hearings regarding: prosecutorial misconduct; the incompetence of defense counsel; and the fair administration of the death penalty, and is expected to issue formal recommendations in those areas.

This Resolution: Recognizes that the consensus approach adopted by the CCFAJ, under the chairmanship of John Van de Camp and the executive director stewardship of Gerald Uelmen, has enabled it to reach near unanimity in support of its reports and recommendations among Commissioners that include prosecutors, defense lawyers, police representatives, a crime victim advocate and a judge. This Resolution also recognizes that the California criminal justice community has supported the legislation implementing the CCFAJ recommendations, with traditional opponents in the criminal justice system, including the California District Attorneys Association, on the one hand, and the California Public Defenders Association and the California Attorneys for Criminal Justice, on the other hand, supporting recommended legislation.

This Resolution would urge the enactment into legislation of CCFAJ recommendations anticipated in 2007, and, further, would urge the Governor’s signature on such legislation.

The Problem: We do not know whether wrongful convictions are much more common than realized throughout the criminal justice system, but we do know that as causes for wrongful convictions are identified, we must address them. This is a truth recognized by the CCFAJ itself which has adopted a method of making interim recommendations as it considers the various causes for wrongful convictions.

The problem of wrongful convictions deserves the expertise that California lawyers bring to this

arena. The willingness of traditional opponents to join together to support by consensus the suggested, and obviously needed, reforms, can not be ignored. The people of California are watching to make sure that California lawyers are acting.

IMPACT STATEMENT:

This resolution does not affect any other law, statute or rule.

AUTHOR AND/OR PERMANENT CONTACT: Frank Z. Leidman, Law Offices of Frank Z. Leidman, 473 Jackson Street, Third Floor, San Francisco, CA 94111, Cellular Telephone: (415) 308-1590; Email: Frank@LeidmanLaw.com

RESPONSIBLE FLOOR DELEGATE: Frank Z. Leidman