

1 JEFFREY A. AARON (SBN 135625)
2 Mendocino County Public Defender
3 By: Timothy O. Stoen (SBN 37272)
4 Deputy Public Defender
5 175 S. School St.
6 Ukiah, California 95482
7 Telephone: (707) 234-6964
8 Attorneys for Defendant:
9 ROBERT ED TAYLOR

RECEIVED

2021 NOV 30 PM 2:33

MENDOCINO COUNTY
DISTRICT ATTORNEY

RECEIVED

NOV 30 2021

PUBLIC DEFENDER
COUNTY OF MENDOCINO

6 SUPERIOR COURT OF CALIFORNIA, COUNTY OF MENDOCINO

7 PEOPLE OF THE STATE OF
8 CALIFORNIA,

9 Plaintiff,

10 -vs.-

11 ROBERT ED TAYLOR,

12 Defendant.

SCUK-CRCR-20-35040-1

**MOTION AND NOTICE FOR
RULING THAT LIFE SENT-
ENCE FOR RESIDENTIAL
BURGLARY UNDER THE
"THREE STRIKES LAW" IS SO
DISPROPORTIONATE AS TO
BE "CRUEL OR UNUSUAL"
UNDER THE CALIFORNIA
CONSTITUTION, THEREBY
REQUIRING THIS COURT TO
STRIKE ALL STRIKES BUT
ONE**

[Cal Const Art I Sec 17]

Date: December 21, 2021

Time: 9 a.m..

Dept.: B

13
14
15
16
17
18
19
20 TO THE ABOVE ENTITLED COURT AND TO THE DISTRICT ATTORNEY
21 OF MENDOCINO COUNTY, STATE OF CALIFORNIA:

22 PLEASE TAKE NOTICE that at the above date and time in Department B,
23 defendant will move as stated in the above caption.

24 Dated: November 30, 2021 Respectfully submitted,

25
26
27 
28 Timothy Stoen

TABLE OF CONTENTS

	<u>Page</u>
I. ISSUE PRESENTED	1
II. STATEMENT OF THE CASE	1
III. STATEMENT OF FACTS	3
IV. ARGUMENT	5
A. As prohibited by the California Constitution, a punishment is “cruel or unusual” if it is so disproportionate to the crime for which it is inflicted that it shocks the conscience and offends fundamental notions of human dignity in light of the evolving state of California’s criminal jurisprudence.	6
B. Since the ultimate punishment must not be disproportionate to the crime, the current offense must bear the weight of the recidivist penalty imposed; past offenses alone will not justify imposing an enhanced sentence. A life term punishment under the Three Strikes Law is cruel or unusual if the offense and the offender pose no “grave danger to society,” and is disproportionate to punishment for more serious crimes.	7
C. In <i>People v. Avila</i> the Court of Appeal held that a life term punishment under the Three Strikes law for the current offenses, attempted robbery and attempted extortion, by a 47-year old defendant posed no grave danger to society, and was disproportionate to punishment for second-degree murder, attempted premeditated murder, manslaughter, forcible rape, and child molestation, thus requiring the striking of all but one of his prior strikes.	9
D. In our case of Robert Taylor, the proposed life term punishment for the current offense of residential burglary of motel room by a delusional 60-year-old defendant, who has no crimes of violence for the past 19 years, poses no grave danger to society and is disproportionate to punishment for second-degree murder, attempted premeditated murder, manslaughter, forcible rape, and child molestation, thus requiring the striking of all but one of his prior strikes.	14
V. CONCLUSION	15

1 **TABLE OF AUTHORITIES**

2 **Pages**

3 **Cases**

4

5 *In re Lynch* (1972) 8 Cal. 3d 410 5, 6,

6 *People v. Avila* (2020) 57 Cal.App.5th 1134 1, 5, 6

7 7, 8, 9

8 10, 11,

9 12, 13

10 *People v. Williams* (1998) 17 Cal.4th 148 8

11

12 **Statutes**

13 Penal Code, sec. 1170.12 5

14 **Constitution**

15

16 Cal Const, Art. I, sec. 17 5

17

18

19

20

21

22

23

24

25

26

27

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I.

ISSUE PRESENTED

Under *People v. Avila*,¹ life in prison for a nonviolent current offense, even if attempted robbery, “robs recidivist sentencing of its moral foundation,” and requires the striking of all but one prior strikes so as not to be “cruel or unusual punishment” prohibited under the California Constitution. Here, 60-year old Robert Taylor’s proposed 25-years-to-life term for “residential burglary” of a motel room is so disproportionate to the offense as to be “cruel or unusual,” and thus requires the striking of all but one of his six strikes. Should Mr. Taylor’s sentence therefore be state prison for an aggravated term of six years doubled?

II.

STATEMENT OF THE CASE

On May 7, 2020, the District Attorney filed a Criminal Complaint against the defendant, Robert Ed Taylor, alleging that on or about May 7, 2020, he committed the crime of Burglary in the First Degree, a felony violation of Penal Code section 459/460(a), in that he entered an inhabited motel room at 1340 North State Street, Ukiah with the intent to commit larceny. The complaint alleged four strikes, two occurring in 2016, one occurring in 1989, and one occurring in 1979.

On July 28, 2020, a preliminary hearing was held, and Mr. Taylor was held to answer on first degree burglary.

On August 8, 2020, an Information was filed alleging the same as in the Complaint.

On April 4 2021, jury trial commenced before the Honorable Victoria Shanahan.

¹ *People v. Avila* (November 30, 2020) 57 Cal.App.5th 1134.

1 On April 5, 2021, the prosecution amended the number of strikes to six by adding
2 one additional victim to both the 1979 case and the 1989 case.

3 On April 15, the Jury rendered a verdict of Guilty of Penal Code § 459/460(a).

4 After the jury was excused, the Court received four certified documents alleging
5 the strike priors.

6 The first two strikes alleged that the defendant committed the crime of criminal
7 threats, a felony violation of Penal Code section 422, in Mendocino County on
8 February 3, 2016, Counts One and Two.

9 The third strike alleged that the defendant committed the crime of assault with a
10 deadly weapon with infliction of great bodily injury, a felony violation of Penal
11 Code sections 245(a)(1) and 12022.7(a), in Lake County, on November 1, 2001.

12 The fourth strike alleged that the defendant committed the crime of robbery
13 personally using a firearm, a felony violation of Penal Code sections 211 and
14 12022.5(a), in the County of Santa Cruz on June 28, 1989.

15 The fifth and sixth strike alleged that the defendant defendant committed the
16 crime of robbery, a felony violation of Penal Code section 211, in the County of San
17 Diego, on May 25, 1979, Counts One and Two.

18 On April 15, 2021, the Court found all six strike allegations to be true.

19 On May 29, 2021, the Mendocino County Probation Department issued a “short
20 form” report pursuant to Section 1203c of the Penal Code, reciting that the defendant
21 had “declined to participate in the PSI process and did not care to answer social
22 information.” The report made the following recommendation (emphasis added):

23 *“This case is deemed a Life Term under the Three Strikes Statute,*
24 *as Count One is a serious felony and strike offense. The Greatest*
25 *Minimum Term in this case is 25 Years-to-Life.”*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

III.

STATEMENT OF FACTS

A.

Nature of the Offense

On May 7, 2020, between 12:00 a.m. and 2:00 a.m. (RT 19:3-4), an Ashlee Johnson and a Will Rodgers, both of whom were “using drugs at the time” (RT 24:3-7), left their motel room at Motel 6 North in Ukiah (RT 16:16). On their return they discovered Mr. Taylor leaving their room (RT 29:14). Mr. Rodgers punched Mr. Taylor in the face (RT 29:8). Mr. Taylor did not run away (RT 37:8-9). Mr. Taylor did not hit Mr. Rodgers back (RT 37:10-11). Mr. Taylor asked Mr. Taylor what he had in his pocket ((RT 30:7-9), whereupon Mr. Taylor produced “eight hundred in one hundred dollar bills” (RT 30:11), which belonged to Ms. Johnson and Mr. Rodgers (RT 33:15). Mr. Rodgers said Mr. Taylor “was mumbling,” said “I was trying to protect your room,” and said he had “seen someone with a gun,” causing Mr. Rodgers to have “no idea what the heck he was talking about.” (RT 31:5-8.)

B.

Nature of the Offender

The defendant, Robert Ed Taylor, is 60 years old

Although Mr. Taylor has not been willing to share his social history, the following facts have been gleaned from the following reports.

The San Diego County Probation Officer’s Report of June 22, 1979, states that :the defendant recalls that his father left home before the defendant started school.

The Santa Cruz County Probation Officer’s Report of August 7, 1989, states that the defendant was “apparently the second of two children,” that “the defendant’s parents were divorced at an unspecified time,” that his father “is occupied as a

1 laborer,” that his mother “is occupied as a housewife,” and that he was married in
2 1986, “a marriage which is pending divorce.”

3 The Mendocino County Probation Officer’s report of January 27, 2016, says that
4 the defendant “stated he began hearing voices when he was 19 or 20 years old, and
5 believes it was due to his excessive use of ‘PCP.’”

6 On November 12, 2020, in the current case, Dr. Correia rendered a report
7 pursuant to Penal Code 1368. Dr. Correia stated that Mr. Taylor reported being
8 “born with drugs in my system,” which he indicated was “probably cocaine, that he
9 he moved to Ukiah in 2012, and that he has a current diagnosis of “both
10 schizophrenia and bipolar.”
11

12 **C.**

13 **Diminishing Strike History**

14 Robert Taylor, born on October 17, 1960, has a diminishing strike history.

15 His first two strike convictions occurred when he was 19 years old. Had they
16 occurred under current law, he would be regarded as a youth offender. Although his
17 first four strikes are classified as “violent,” they ended in 2001.

18 Robert’s fifth and sixth strike convictions were for criminal threat, against two
19 separate victims, as alleged in Counts One and Two of an Information alleging a
20 violation of Penal Code section 422, in Mendocino County. on February 3, 2016.
21 The convictions were pursuant to a “West plea.” Just as his current residential
22 burglary strike was not violent, neither of those 2016 strikes was violent.
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

IV.

ARGUMENT

The proposed life term under the Three Strikes Law for Robert Taylor’s current nonviolent offense of residential burglary is “cruel and unusual” punishment prohibited by Article I, Section 17, of the California Constitution.

In 1879 the voters adopted a California Constitutional provision prohibiting “cruel or unusual punishment.”²

In 1972 the California Supreme Court, in *In re Lynch*, construed that provision, in ruling that an indeterminate sentence for second-offense indecent exposure was cruel or unusual.³

In November 2020 the California Court of Appeal, in *People v. Avila*,⁴ rendered a landmark decision applying Article I, Section 17, to invalidate a life-term sentence for two nonviolent current felonies, attempted robbery and attempted extortion, imposed under the Three Strikes Law, which is codified in Penal Code section 1170.12.

The Court of Appeal in *Avila* chose to address the merits despite the defendant’s counsel not objecting that the sentence was cruel and/or unusual, thereby forfeiting the claim on appeal.⁵

As will be shown, the facts in our case of Robert Ed Taylor meet the “cruel or unusual” ruling in *Avila* even more than did the facts in that case.

24
25
26
27
28

² Cal Const, Art. I, sec. 17 (formerly article I, section 6, as adopted May 7, 1879) (“Cruel or unusual punishment may not be inflicted or excessive fines imposed.”)

³ *In re Lynch* (1972) 8 Cal. 3d 410.

⁴ *People v. Avila, supra*, 57 Cal.App.5th 1134.

⁵ *Id.* at 1145, note 12.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

A.

As prohibited by the California Constitution, a punishment is “cruel or unusual” if it is so disproportionate to the crime for which it is inflicted that it shocks the conscience and offends fundamental notions of human dignity in light of the evolving state of California’s jurisprudence.

In the 1972 case of *In re Lynch*, the California Supreme Court stated that the Constitution prohibition of cruel or unusual punishment was violated if a punishment “is so disproportionate to the crime for which it is inflicted that it shocks the conscience and offends fundamental notions of human dignity.”⁶

In *People v. Avila*, the Court of Appeal adopted Lynch’s “shock the conscience” test, and then expanded its meaning to rule that disproportionality must be viewed in light of “the evolving state” of California’s criminal jurisprudence.⁷

After mentioning a number of specific examples of this evolving jurisprudence, *Avila* recited the current existence of “a broad penal reform effort” that has the purpose of reducing “prison overcrowding that partially resulted from lengthy sentences incommensurate to the individual’s culpability,” and which “show that

⁶ *In re Lynch*, at 424 (“We conclude that in California a punishment may violate article I, section 6, of the Constitution if, although not cruel or unusual in its method, is so disproportionate to the crime for which it is inflicted that it shocks the conscience and offends fundamental notions of human dignity.”)

⁷ *Avila*, at 1150 (“[T]he evolving state of California’s criminal jurisprudence is relevant to an analysis of disproportionality and, hence, to what is cruel or unusual punishment under our state constitution.”)

1 legislators and courts are reconsidering the length of sentences in different contexts
2 to decrease their severity.”⁸

3 **B.**

4 **Since the ultimate punishment must not be disproportionate**
5 **to the crime, the current offense must bear the weight of the**
6 **recidivist penalty imposed; past offenses alone will not justify**
7 **imposing an enhanced sentence. A life term punishment**
8 **under the Three Strikes Law is cruel or unusual if the**
9 **offense and the offender pose no “grave danger to society,”**
10 **and is disproportionate to punishment for more serious**
11 **crimes.**

12
13 After adopting *Lynch*’s “shock the conscience” test, the Court of Appeal in *Avila*
14 made two critical rulings for its interpretation.

15 First, it adopted a modified version of *Lynch*’s three-prong test:

16 “Three techniques are employed [in *Lynch*] to make this
17 determination: first, we examine the nature of the offense and/or
18 the offender with particular regard to the degree of danger both
19 present to society; second, compare the challenged penalty with
20 the punishments for more serious offenses in California; and
21 third, compare the challenged penalty with the punishments
22 prescribed for the same offense in other states. [Citation.]
23 Disproportionality need not be established in all three
24 areas. [Citation.]”⁹

25
26 ⁸ *Id.* at 1151.

27 ⁹ *Id.* at 1145.

1 It then elaborated on the first *Lynch* technique:

2 “The first *Lynch* technique requires considering the nature of the
3 offense in the abstract as well as the facts of the crime in
4 question, ‘i.e., the totality of the circumstances surrounding the
5 commission of the offense ... , including such factors as its
6 motive, the way it was committed, the extent of the defendant’s
7 involvement, and the consequences of his acts.’ [Citation.]
8 Courts must view the nature of the offender in the concrete rather
9 than the abstract, considering the defendant’s age, prior
10 criminality, personal characteristics, and state of mind. [Citation.]
11 Stated simply, the punishment must fit the individual
12 criminal. [Citation.]”¹⁰

13 As its second critical ruling, the Court stated that dominant focus must be on the
14 current offense, not the prior strikes:

15
16 “[T]he ultimate punishment, all facts considered,’ must not be
17 disproportionate to the crime. [Citations.] ‘Accordingly, the
18 current offense must bear the weight of the recidivist penalty
19 imposed.’ [Citations.] Because the penalty is imposed for the
20 current offense, the focus must be on the seriousness
21 of *that* offense: past offenses alone will not justify imposing an
22 enhanced sentence. [Citation.]”¹¹

23
24 ¹⁰ *Ibid.*

25
26 ¹¹ *Id.* at 1146 (italics in opinion). This is a major departure from *Romero*’s statutory
27 “furtherance of justice” test in *People v. Williams* (1998) 17 Cal.4th 148, 161, which
28 places equal focus on “present felonies and prior serious or violent felony
convictions.”

1 The key issue, then, is whether the nature of the offense and the offender pose a
2 “sufficiently grave danger to society to warrant the heavy punishment of a life-
3 maximum sentence.”¹²

4 Regarding *Lynch*’s second and third techniques, *Avila* stated that “it is
5 unnecessary to establish disproportionality using all three.”¹³

6 Applying the second *Lynch* technique of comparing intrastate California
7 punishments, *Avila* found the technique satisfied by noting “the evolving state of
8 California’s criminal jurisprudence,” and by showing that his life-sentence for a
9 current nonviolent current offense exceeds the punishment in California for various
10 serious violent felonies.¹⁴

12 C.

13 **In *People v. Avila* the Court of Appeal held that a life term**
14 **punishment under the Three Strikes law for the current**
15 **offenses, attempted robbery and attempted extortion, by a**
16 **47-year old defendant posed no grave danger to society, and**
17 **was disproportionate to a maximum 9-year sentence for first**
18 **degree robbery, and “robs recidivist sentencing of its moral**
19 **foundation,” thus requiring the striking of all but one of his**
20 **prior strikes.**

21
22
23
24
25

¹² *Id.* at 1147.

26 ¹³ *Id.* at 1150.

27 ¹⁴ *Id.* at 1151.

1 In *People v. Avila*, a jury found Rene Avila guilty of attempted robbery and
2 attempted extortion for offenses occurring on February 19 and 21, 2018.¹⁵

3 On November 30, 2018, the trial court sentenced Avila to 25 years to life as a
4 recidivist based on three prior strikes, plus 14 years for attempted robbery and
5 attempted extortion.¹⁶

6 The Court of Appeal noted that the defendant's strikes included second degree
7 robbery and an assault with a knife on the same occasion, and further noted,
8 according to the preliminary hearing transcript in that case, that Avila and two
9 accomplices robbed a man who was filling newspaper vending machines, that the
10 man testified that Avila held a knife to his throat, and that the man's arm was cut
11 when the man threw his arm up.¹⁷ It noted that the defendant's third strike offense
12 was a second degree robbery, as well as possession of a firearm by a felon, for which
13 he was sentenced to 10 years in prison.¹⁸

14 NATURE OF THE OFFENSE

15 The Court of Appeal in *Avila* summarized "the facts of the crime in question":

16 "Avila's current offenses are attempted robbery and attempted
17 extortion. Neither are violent crimes, and extortion is neither
18 serious nor violent. [Citations.] Although both require the
19 attempt to use force or fear (§§ 211, 518). Avila did not use
20 violence against either of his victims. He did not verbally or
21 physically threaten them. Rather, when the victims refused to
22

23
24 ¹⁵ *Id.* at 1139.

25 ¹⁶ *Ibid.*

26 ¹⁷ *Id.* at 1141.

27 ¹⁸ *Ibid.*

1 give Avila money, he crushed their oranges and left. Avila's
2 motive for his crimes is unclear, though it is reasonable to infer it
3 was financial, given that he demanded money.”¹⁹
4

5 The Court of Appeal summarized “the nature of the crime in the abstract”:

6 “[T]he total amount of property damage was about \$20 worth of
7 citrus, a point we make because it is relevant to the minor nature
8 of the offenses and not to trivialize the worth of the property to
9 the victims. The unsophisticated nature of the attempted robbery
10 and attempted extortion committed by Avila are thus not
11 comparable to armed robberies, which have been described as
12 most heinous in nature [Citation].”²⁰

13 The Court of Appeal summarized “the degree of danger”:

14 “As to the consequences of Avila's actions, he frightened the
15 victims, so much so that Castro sold his fruit at a different
16 location for several days. However, there are “rational
17 gradations of culpability that can be made on the basis of the
18 injury to the victim or to society in general.” [Citation.] Here, the
19 victims were physically uninjured even if emotionally
20 traumatized. Although trying to force vendors to pay rent is an
21 affront to society, the harm the victims suffered is arguably less
22 than that caused by the crime of indecent exposure, which our
23 California Supreme Court described as “minimal at most” and
24 not a “sufficiently grave danger to society to warrant the heavy
25 punishment of a life-maximum sentence.” [(*Lynch* citation.) A

26 ¹⁹ *Id.* at 1146.

27 ²⁰ *Ibid.*

1 punishment passes constitutional muster only if the totality of the
2 circumstances surrounding the current offenses can bear
3 the weight of the sentence imposed. [Citation.] “²¹

4
5 The Court of Appeal then rendered its decision on the “nature of the offense” with
6 respect to the presence or absence of a “sufficiently grave danger to society” to
7 warrant a life-maximum sentence:

8 Avila's current offenses alone cannot justify the sentence
9 imposed.” ²²

10 NATURE OF THE OFFENDER

11 In the first half of its opinion in *Avila*, which ruled in favor of the defendant’s
12 appeal from the trial court’s refusal to strike a prior conviction under *Romero*, the
13 Court of Appeal recited the following facts that logically bear on the “nature of the
14 offender” under the constitutional issue of cruel or unusual:

15 “Avila's age, 47 when sentenced, is also relevant to his
16 background, character, and prospects. Although Avila's middle-
17 age status alone does not remove him from the spirit of the Three
18 Strikes law [Citation], given his age, his three strikes sentence
19 coupled with the determinate term means he will likely die in
20 prison. Avila indeed may be deserving of a lengthy sentence. But
21 even under the defense's proposed 12-year-four-month
22 sentence, Avila would have been imprisoned and not eligible for
23 parole until approaching 60 years of age. The length of a
24 sentence is the ‘overarching consideration’ in deciding whether
25 to strike a prior conviction because the underlying purpose of

26 ²¹ *Id.* at 1147.

27 ²² *Ibid.*

1 striking a prior conviction is the avoidance of unjust sentences.

2 [Citation.]”²³

3
4 In the constitutional portion of its opinion, the Court of Appeal noted that Avila’s
5 prior strikes occurred almost 30 years before the current crimes, three of which
6 involved violence, a 1999 conviction for unlawful sexual intercourse with a minor
7 involved a victim whom he married, and his last felony conviction in 2008 was for
8 drug possession, which would now be a misdemeanor.

9
10 The Court proceeded to state that a mandatory minimum term was “cruel” in its
11 “failure to consider the extent to which the addict’s repetition of proscribed behavior
12 is attributable to his addiction.”²⁴

13
14 The Court of Appeal then rendered its composite decision on both the nature of
15 the offense and the nature of the offender: “In sum, the first *Lynch* technique shows
16 that Avila’s sentence lacks proportionality to his crimes.”²⁵

17 **SECOND AND THIRD LYNCH TECHNIQUES**

18
19 As for “the second and third Lynch technique, *Avila* compared the maximum 3-
20 year sentence for attempted robbery to a 9-year sentence for first degree robbery.”²⁶

21 It then pointed out that the the sum of the Legislators’ ongoing punishment-
22 reducing changes are relevant to a showing of disproportionality:

23
24

²³ *Id.* at 1144.

25
26 ²⁴ *Id.* at 1149.

27 ²⁵ *Ibid.*

28 ²⁶ *Ibid.*

1 “The changes suggest disproportionality in Avila’s sentence, one
2 that even as a recidivist exceeds the punishment in California for
3 second degree murder, attempted premeditation, murder,
4 manslaughter, forcible rape, and child molestation.”²⁷

5
6 **D.**

7 **In our case of Robert Taylor, the proposed life term**
8 **punishment for the current offense of residential burglary of**
9 **a motel room by a delusional 60-year-old defendant, who has**
10 **no crimes of violence for the past 19 years, poses no grave**
11 **danger to society and is disproportionate to punishment for**
12 **second-degree murder, attempted premeditated murder,**
13 **manslaughter, forcible rape, and child molestation, thus**
14 **requiring the striking of all but one of his prior strikes.**

15 As shown by the “Nature of the Offense” and the “Nature of the Offender” in the
16 above “Statement of Facts,” Robert Taylor is more deserving of a finding of cruel or
17 unusual punishment than was the defendant in *Avila*.

18
19 Although a three-year maximum term for attempted robbery (not counting
20 additional time for attempted extortion), is less than a maximum term of six years
21 for residential burglary, a thoughtful comparison as to inherent culpability shows
22 that Mr. Taylor’s residential burglary is less culpable than Avila’s crimes, each of
23 which involved an attempt to use force or fear. Mr. Taylor showed the very opposite
24 of attempted force or fear when confronted.
25
26
27

28 ²⁷ *Id.* at 1151.

1 More so than in *Avila*, where the court found the defendant's age of 47 years was
2 deemed relevant to a finding of cruel or unusual under a life term, Mr. Taylor's age
3 of 60 years is a stronger case for a finding of cruel or unusual under a life term.
4

5 As in *Avila*, Mr. Taylor's drug addiction, is "a factor to consider" in
6 determining cruel or unusual, and is even more of a factor because of Mr. Taylor's
7 addiction apparently from birth.
8

9 Finally, a life term for Mr. Taylor for a residential burglary is grossly
10 disproportionate to the crimes listed as such in *Avila*: second degree murder,
11 attempted premeditated murder, manslaughter, forcible rape, and child molestation.
12

13 V.

14 **CONCLUSION**

15 Mr. Taylor's residential burglary involving no force or fear, his pacific
16 response to being hit in the face by the victim, his ongoing delusion, the sobering
17 fact of a drug addiction possibly since birth, his crime being grossly disproportionate
18 to attempted premeditated murder and the other crimes listed in *Avila*, his age of of
19 60 years meaning a life term would likely result in his never gaining freedom until
20 an old man, should he even survive that long, all justify and warrant this Court to
21 strike all strikes but one, and thus to sentence Mr. Taylor to 12 years.
22

23 Dated: November 30, 2021. Respectfully submitted,
24

25 

26 _____
27 Timothy Stoen
28 Deputy Public Defender
Attorney for Robert Taylor

PROOF OF SERVICE

I declare that:

I am employed in the County of Mendocino, State of California. I am over the age of 18 years and not a party to the within entitled cause. My business is Office of the Mendocino County Public Defender, 175 So. School Street, Ukiah, California 95482 and my business fax is (707) 463-5435.

On November 30, 2021 I served the attached:

MOTION & NOTICE

On parties in said case by hand delivering a copy to

District Attorney's Office
100 N State St room 10
Ukiah, CA 95482

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on November 30, 2021 at Ukiah, California.


Debra Glass