

No. 09-1233

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

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

v.

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

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

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

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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,

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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 offenders arrested for parole violations will not be

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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).

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.

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