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April 26, 2019

The Honorable Frances Rothschild, Presiding Justice  
and Honorable Associate Justices  
California Court of Appeal  
Second Appellate District, Division One  
Ronald Reagan State Building  
300 South Spring Street, Second Floor, North Tower  
Los Angeles, CA 90013

RE: SUPPLEMENTAL LETTER BRIEF  
*In re* LESLIE VAN HOUTEN, Case No. B291024

Dear Justices:

In accordance with this Court's April 24 request for supplemental briefing, respondent submits this brief addressing the effect on Van Houten's petition should the Governor reverse the Board of Parole Hearing's January 30, 2019 decision finding Van Houten suitable for parole before the Court issues its opinion in this case. There would be none.

As a general principle of law, the court is under a duty to decide only "actual controversies" by a judgment which can be carried into effect. (*Nat'l. Assn. of Wine Bottlers v. Paul* (1969) 268 Cal.App.2d 741, 746.) Hence, the court must avoid rendering opinions on moot questions, abstract propositions, or otherwise declaring rules of law which cannot affect the matter in the case before it. (*Ibid.*) A matter is considered moot where there is no justiciable issue before the court. (*In re Ponce* (1966) 65 Cal.2d 341, 344; *Hagen v. Fairchild* (1965) 238 Cal.App.2d 197, 202.) "Although a case may originally present an existing issue . . . if, before the decision is reached, it has, through acts of the parties or other cause, lost the existent character, it is rendered moot and may not be considered." (*Nat'l. Assn. of Wine Bottlers*, at p. 746, citations omitted.) Such a matter is moot because even if the petition was granted, "it would result in nothing for petitioner [and] hence resolution of the question originally presented [would be] academic and of no practical effect." (*Frias v. Superior Court* (1975) 51 Cal.App.3d 919, 923.)

The Honorable Frances Rothschild, Presiding Justice  
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Page 2

The Board found Van Houten suitable for release on parole at her January 30, 2019 parole suitability hearing. That decision becomes final no later than May 30, 2019. (Penal Code, § 3041, subd.(b)(2).) Once final, the Governor has 30 days to exercise his constitutional and statutory authority to review the Board's decision. (Penal Code, § 3041.2, subd. (a); California Constitution, article V, section 8(b).)

If the Governor affirms the 2019 grant, any decision the Court issues in the instant case would be moot, as Van Houten would be released and no further relief would be available to her. But if the Governor reverses Van Houten's January 2019 parole grant, the instant case is not moot, as the relief requested in her petition would remain available to her.

Specifically, if the Court finds the 2018 Governor decision violated due process in that it is not supported by some evidence, then the appropriate remedy would be an order that "vacates the Governor's reversal, reinstates the Board's grant of parole, and directs the Board to conduct its usual proceedings for a release on parole." (*In re Lira* (2014) 58 Cal.4th 573, 582.) Because this relief would remain available to her notwithstanding a 2019 Governor reversal, the instant petition would not be rendered moot.

Sincerely,

/s/ Jill Vander Borght

JILL VANDER BORGHT  
Deputy Attorney General  
State Bar No. 240004

For XAVIER BECERRA  
Attorney General

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**DECLARATION OF ELECTRONIC SERVICE AND SERVICE BY U.S. MAIL**

Case Name: *In re Leslie Van Houten on Habeas Corpus*

No.: **B291024**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter.

On April 26, 2019, I electronically filed the attached **SUPPLEMENTAL LETTER BRIEF** with the Clerk of the Court using the Court's TrueFiling system provided by the California Court of Appeal, Second Appellate District.

On April 26, 2019, I served the attached **SUPPLEMENTAL LETTER BRIEF** by transmitting a true copy via this Court's TrueFiling system to:

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Los Angeles County District Attorney

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I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On April 26, 2019, I served the attached **SUPPLEMENTAL LETTER BRIEF** by placing a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 300 South Spring Street, Suite 1702, Los Angeles, CA 90013, addressed as follows:

The Honorable William C. Ryan  
Los Angeles County Superior Court  
Clara Shortridge Foltz Criminal Justice Center  
210 West Temple Street, Department 100  
Los Angeles, CA 90012

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on April 26, 2019, at Los Angeles, California.

\_\_\_\_\_  
Virginia Gow  
Declarant

\_\_\_\_\_  
*/s/ Virginia Gow*  
Signature