

CALIFORNIA CORRECTIONAL SUPERVISORS ORGANIZATION

December 18, 2009 - Weekly Update

Court Rescinds Executive Orders on Furloughs

An Alameda Superior Court Judge Frank Roesch ruled, on December 17th, that furloughs ordered by Governor Arnold Schwarzenegger are illegal for state prison officers whose pay is reduced but who have to wait to take the time off.

The court order's conclusion cited:

“ Based upon the foregoing, the Court GRANTS the Petition for Writ of Mandate. A writ of mandate shall issue commanding Respondents to rescind the portions of Executive Orders S-16-08 and S-13-09 that are in violation of State law that will and have resulted in salary reductions to those employees represented by Petitioner in this action.

The writ will further command Respondents to pay all employees represented by Petitioner in this action for all hours worked for which furlough credits have not been utilized.

While Petitioner would be entitled to a judgment enjoining Respondents from failing or refusing to pay employees represented by Petitioner for all hours worked in a pay period at their designated wage scale, that remedy is duplicative of the mandamus relief and it will not be ordered.

Petitioner shall prepare a form of judgment for execution by the Court and a form of writ for approval as to form by the Court and execution by the Clerk of the Court.”

IT IS SO ORDERED

Dated: 12/17/09

**Frank Roesch
Judge of the Superior Court**

Notes:

The Governor has stated that this court order will be appealed. Further, the state will request a stay on the ruling until the appeal has been heard and decided upon. The Governor stated that he made various cuts statewide, and utilized furloughs to help close a \$60 billion deficit and that he will “stand firm to protect taxpayers and move California forward.”

The court order already has been analyzed by CCSO attorney, Mark Kruger, to ascertain if there is further action CCSO needs to take in order to ensure that all correctional sergeants and lieutenants who supervise Unit 6 employees are covered. Attorney Kruger has made contact with the CCPOA attorney to work together and not against each other on this most important issue.

CCSO had previously filed a temporary restraining order that was denied, and would only need to expand on it with an injunctive relief to include all supervisors in unit 6. However, it is very important to determine the right time, in order that nothing hinders this order as it stands currently. The state's

appeal must be heard, and then CCSO's injunctive relief will be brought forward to cover all. We will not work against CCPOA on this issue, but rather together to make this order a reality for all our members.

The State has issued a memorandum citing that the court order did not rescind S-16-08 and S-13-09 totally but only the part that relates to "self-directed" furloughs that is unlawful. The memorandum further cites that furlough days earned and used in the same pay period are still permitted. It goes on to cite that the order does not immediately terminate the Furlough Program, and informed employees to continue to observe their furlough days as currently scheduled.

This all will be argued in the appeals that will follow this order. Do not expect to be paid until after the appeal is completed. However, this is Good News to start off the New Year!!

Happy Holidays from all of Us at CCSO!



The next update will be January 8, 2010 unless further news surfaces from the furlough court ruling.



**CCSO Office will be Closed:
1/2 day on December 24th ~ All day on December 25th
1/2 day on December 31st ~ All day on January 1st**

TAKE CARE AND BE SAFE