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Attorney for Plaintiffs  
CALIFORNIA VALLEY MIWOK TRIBE,  
THE GENERAL COUNCIL, SILVIA BURLEY,  
RASHEL REZNOR, ANJELICA PAULK and  
TRISTIAN WALLACE

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

**CALIFORNIA VALLEY MIWOK TRIBE, a** ) Case No.: 2:16-cv-01345-WBS-CKD  
federally-recognized Indian )  
tribe, **THE GENERAL COUNCIL,** )  
**SILVIA BURLEY, RASHEL REZNOR;** ) **PLAINTIFFS' SUPPLEMENTAL**  
**ANJELICA PAULK; and TRISTIAN** ) **REQUEST FOR JUDICIAL NOTICE**  
**WALLACE** )

Plaintiffs,

Date: May 30, 2017  
Time: 1:30 p.m.

vs.

Judge: Hon. William B. Shubb  
Courtroom 5

**SALLY JEWELL, in her official** )  
capacity as U.S. Secretary of )  
Interior, et al., )

Defendants

**THE CALIFORNIA VALLEY MIWOK** )  
**TRIBE, et al.** )

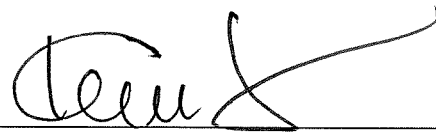
Intervenor-Defendants.

Plaintiff CALIFORNIA VALLEY MIWOK TRIBE hereby requests  
that the Court take judicial notice pursuant to FRE 201 of the  
document described below:

34. (RJN #34) (attached). The February 21, 1978 "Report of  
Probation Officer," on Yakima Dixie, filed in the County of  
Calaveras Superior Court (People v. Yakima Kenneth Dixie), No.

1 1707, which was attached as Exhibit "38" to the February 7, 2012  
2 deposition of Yakima Kenneth Dixie (CVMT v. California Gambling  
3 Control Commission, Case No. 37-2008-00075326). FRE 201(b):  
4 Judicial Notice of Adjudicative Facts. Courts may take judicial  
5 notice of court records filed in state or federal court. U.S.  
6 v. Warneke (7<sup>th</sup> Cir. 1999) 199 F.3d. 906, 909, fn. 1. This  
7 document is referenced in Plaintiffs' opposition papers, and is  
8 relevant on the issue of whether Dixie was coerced in his  
9 deposition testimony, why counsel reacted to Dixie's physical  
10 threats at the deposition, and the issue of Plaintiffs' claim  
11 that Dixie and Everone fabricated the Tribal leadership dispute  
12 in order to steal control of the Tribe from Burley's leadership  
13 in order to build a casino. Dixie was asked whether he  
14 participated in any kind of scheme to lie about something that  
15 wasn't true in order to get an advantage in a situation,  
16 including participating in a scheme to lie about resigning as  
17 Tribal Chairman. (Page 184-185 of Dixie deposition). Dixie said  
18 "no." Plaintiffs' counsel then confronted Dixie with the  
19 Probation Report that describes how Dixie, after murdering Mr.  
20 Jeff, attempted to get a witness to lie about what she saw and  
21 knew about the murder, shift the blame on someone else, and  
22 tried to coerce a witness to help him dispose of the body and  
23 commit perjury about it.  
24  
25  
26  
27  
28

DATED: March 31, 2017



Manuel Corrales, Jr., Esq.  
Attorney for Plaintiffs  
CALIFORNIA VALLEY MIWOK  
TRIBE, THE GENERAL COUNCIL,  
SILVIA BURLEY, RASHEL REZNOR,  
ANJELICA PAULK and TRISTIAN  
WALLACE

**EXHIBIT “34”**

**FILED**

FEB 21 1978

CALAVERAS COUNTY  
Shirley Judith Clarke, Clerk

*Handwritten signature*

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF CALAVERAS**

--- ooo ---

THE PEOPLE OF THE STATE OF CALIFORNIA

Plaintiff

-vs-

YAKIMA KENNETH DIXIE

Defendant

No. 1707

REPORT OF PROBATION OFFICER

**APPEARANCES:**

For the People:

Office of the District Attorney of Calaveras County

For the Defendant:

RICHARD A. ROBYN, ESQ. Public Defender of Calaveras County

REFERRAL DATE:  
SENTENCING DATE:  
DATE OF ARREST:  
CHARGE:  
PLEA:

January 30, 1978  
February 21, 1978, at 9:00 a.m.  
December 12, 1977  
Section 187, Murder, a felony  
Guilty to Murder in the Second Degree, with use of firearm in commission of felony admitted

NAME:  
ADDRESS:  
BIRTHDATE:  
BIRTHPLACE:

YAKIMA KENNETH DIXIE, age 38 years  
Box 41, Sheep Ranch, California  
February 1, 1940  
Angels Camp, California

TO THE HONORABLE JUDGE OF THE ABOVE-ENTITLED COURT:

The Probation Officer of Calaveras County makes and tenders this report concerning the above-named defendant:

38.1

EXHIBIT  
38 DIXIE  
27-12  
FENGAD 800-631-6989

Personal History: Defendant states he is 41 years old and was born in Angels Camp, California, on February 11, 1945. His father, Dennis R. Dixie, is 57 years of age, also born in Angels Camp, is a retired ranch hand living at Shute Ranch. Defendant's mother, born in Sonora and lived there until 1972, when she died at the age of 84. Defendant's parents were married on June 17, 1935, in San Andreas, California, and they separated in 1958. Of this union, four children were born, including the defendant, Richard B. Dixie, age 40, a laborer living in Stockton; Melvin L. Dixie, age 36, a laborer by trade, whereabouts unknown at this time; and Thomas E. Dixie, age 32, a laborer living in Stockton, California.

School: Defendant states he entered school at the age of six years and left at the age of thirteen after completing the seventh grade at Angels Camp Elementary School.

Occupation: Defendant states he last worked for Tone Airola in Angels Camp from November, 1975, to October, 1976, in irrigation work for a salary of \$10.00 a day. He states the job ended in October, and that since that time he has had no steady work but has held several small part-time jobs from that time to the present. From July, 1974, to November, 1975, he was in the County Jail and Prison on parole violation. From June, 1973 to August, 1973, he was a farm laborer in the Riverbank area, and from June, 1972, to June, 1973, in the Stockton area. From March, 1970, to June, 1972, he was in the Duell Vocational Institute. From November, 1966, to March, 1970, he was in Folsom State Prison. From December, 1962, to November, 1966, he was in San Quentin State Prison. From November, 1958, to November, 1962, he was in Soledad State Prison, and from 1954 to November, 1958, he was in Preston CYA.

Health: Defendant states his health is good and that he has no handicaps.

Habits: Defendant states he averages three six-packs of beer and three half-gallons of wine a month; that he drinks no hard liquor and uses no marijuana or drugs.

Hobbies and Organizations: Defendant states he is interested in playing and in watching sports, including basketball and football. He states he is a member of the American Indian Movement (A.I.M.) of South Dakota.

Financial Status: Defendant states he owns no real or personal property, that he is existing on food stamps.

Marital Status: Defendant states he has been living in a common-law relationship with Viviana A. Miller since 1973.

Military Status: Defendant states he has never served in any of the Armed Services of the United States.

**RECORD** The California Department of Justice, Bureau of Criminal Identification, and the California Adult Probation Division reports the following record for defendants:

**JUVENILE:**

6-3-53	Calaveras Juvenile Court	Beyond Parental Control	5-3-53--Received California Youth Authority. 9-1-54--Paroled
9-12-55	Calif. Youth Authority Perkins	Parole Violation	9-12-55--Returned to Youth Authority custody. 8-1-56--Paroled
11-19-56	Calif. Youth Authority	Parole Violation	11-19-56--Returned to Youth Authority custody. 11-26-57--Paroled 11-1-58--Discharged from Parole

**ADULT:**

9-16-58	Placerville SO	Burglary, 1st degree	11-6-58--State Prison 5 yrs to life; 10-29-62--Release on parole
12-3-62	San Andreas SO	Parole Violation	12-20-62--Return to State Prison to finish term of 11-6-58; Release on Parole 6-5-72
7-29-72	San Andreas SO	Burglary	9-18-72--3 mos Co J1
11-2-72	Calif Dept of Corrections	Parole Violation	Returned to State Prison to finish term of 11-6-58; released on parole 5-29-73
4-2-74	San Andreas SO	Possess Stolen Propty	7-8-74--1 yr Co J1
8-15-74	Calif Dept of Corrections	Parole Violation	Returned to State Prison to finish term of 11-6-58
10-1-77	San Andreas SO	Possess Stolen Propty	11-28-77--Dismissed in interest of just.
10-13-77	San Andreas SO	Robbery	12-19-77--1 yr Co J1 w/credit for 18 days
12-12-77	San Andreas SO	Murder	Pending Instant Offense

38.3

On January 8, 1978, an amended information was filed by the District Attorney of Calaveras County, alleging defendant violated Section 187 of the Penal Code of California, Murder, a felony, with Special Allegation that defendant used a firearm in the commission of the felony within the provisions of Section 12022.5 of the Penal Code and committed the felony while personally armed with a deadly weapon, within the provisions of Section 12022 of the Penal Code.

On January 30, 1978, defendant entered his plea to guilty of Murder in the Second Degree. Defendant also admitted the allegation of the use of a firearm in the commission of a felony, and the Court accepted defendant's admission.

The matter was referred to the Probation Department for report and recommendation, with hearing thereon set for February 21, 1978, at 9:00 a.m.

Calaveras Sheriff's Report No 77-4281 and transcript of Calaveras Justice Court preliminary hearing, No C77-201 state, in part:

Sheriff's Deputy responded to call that a subject wanted to talk to that officer at the White Pines Lodge in Arnold. The officer was advised by this subject that he had seen the body of a man he personally knew, naked, with a large amount of stab wounds in the chest and covered with blood, in the rear seat of defendant's vehicle at the Avery Hotel. Also, that a .22 calibre rifle was between the two front seats of defendant's vehicle.

The officer found defendant's vehicle at the Avery Hotel, without occupants. He looked into the vehicle with the aid of a flashlight and alleged observing a shovel and a large amount of blood of the rear seat and a .22 calibre rifle between the two front seats.

The officer parked at a distance from defendant's vehicle to await defendant's possible exit from the hotel.

Approximately thirty minutes later, defendant and his female companion came out of the hotel and drove the vehicle away.

The officer stopped defendant's vehicle and is alleged to have informed defendant that he had information that defendant had a body in his car and that the body was reported to be that of Lennie Jeff, to which defendant is alleged to have remarked that he had not seen Lennie Jeff in a long time.

After defendant allowed the officer to view the interior of the car trunk and allegedly explained that the blood on the vehicle rear seat was from a deer, the officer allowed defendant to drive away.

Subsequently that night the deceased body of Lennie Jeff was found near the old Avery dumpsite.

When it was determined that the victim, Gloria Jeff, had been shot three times with twenty-two calibre bullets, two in the head and once in the abdomen, and stabbed with a knife or sharp instrument twenty-one times on the front of the body, eight of the twenty-one wounds had penetrated into the thoracic cavity, and three of the eight wounds had completely penetrated the thoracic cavity and had exited through the victim's back. Victim's entire body had oozed and dried blood oozing to it.

The thoracic cavity was found to have suffered multiple rib fractures and complete severance of the sternum at its mid-portion.

The heart showed seven lacerations and/or puncture wounds. The pericardial sac was torn and/or lacerated. All vessels entering and those leaving the heart were distorted and only partially intact. The inferior vena cava had been completely severed.

Both lungs were tremendously distorted and were literally shredded in some areas, apparently due to the effects of a sharp instrument.

The parietal pleura was distorted, not only by adhesions but also by multiple lacerations on the anterior and also on the posterior aspects.

There were lacerations of the thoracic aorta at the level of the fourth, fifth and sixth vertebrae. Two of these lacerations had nearly completely severed the aorta, and the third laceration, at the level of the sixth vertebra, had only partially severed this vessel. On the anterior aspects of the bodies of vertebrae four, five and six, defects that would be consistent with nicks and/or marks caused by a sharp instrument were found.

Two shots entered victim from the inshoot wounds, causing multiple fractures of the right and left maxillary bones, distortion, fracturing and shattering of the bones constituting the foramen magnum. The occipital bone and portions of the sphenoid and ethmoid bones were also fractured. Both metallic objects came to rest in the occipital lobe of the brain.

The third shot entered victim's abdomen, with the metallic object coming to rest in the upper right thoracic cavity near the right clavicle.

Victim's drug abuse screening was negative, and his blood alcohol level was determined to be 0.37%.

Cause of death was exsanguination.

The post mortem pathologist testified that either the gunshot wounds or the other wounds could cause death, and that, in his opinion, the gunshot wounds were the cause of death.



Defendant is alleged to have been drinking the day before and the day of the instant offense with his father, his female companion, Vivian Miller, and his uncle, victim in the instant offense.

Defendant is alleged to have been arguing with victim, who was lying down on defendant's father's bed. That defendant was making remarks to victim that he did not like victim, and that defendant stated: "I have a good idea I could kill you right here." Victim is alleged to have stated, "You wouldn't want to do that to your uncle," and then to have laughed.

Such arguing is alleged to have continued for approximately thirty minutes, concluding with defendant getting a gun from a cabinet and shooting victim.

Defendant is alleged to have dragged victim into the kitchen, stating to Vivian, "I told you I could kill; I can kill... I will show you I can do something else, too."

Defendant is then alleged to have taken a big knife from a kitchen cabinet and to have started stabbing victim on the kitchen floor.

Defendant is alleged to have pushed and threatened Vivian to assist in placing victim in the car, to have demanded that she go with him to get rid of the body.

Defendant is alleged to have driven wildly to Avery, to have seen a friend, then to have driven to the Avery dump, where the victim was left. That he returned to the Avery Hotel, where defendant is alleged to have instructed Vivian to act naturally while they went into the hotel bar and had a couple of drinks.

Defendant and Vivian are then alleged to have been returning to Sheep Ranch when stopped by the officer inquiring about the victim, and to have then gone home, where defendant ordered Vivian to clean up the blood on the place.

Vivian is alleged to have obeyed because of defendant's previous and continuing threats to her and her fear of defendant.

Defendant is alleged to have become suspicious that his sixty-seven year old father might have told someone of the instant offense, and defendant beat his father in the face, stating that defendant was going to shoot anybody that got in his way. He reloaded the gun and took off in the car.

Defendant was taken into custody in Sheep Ranch shortly thereafter, and officers also took Vivian and defendant's father into custody at defendant's home.

INTERVIEW WITH DEFENDANT:

Defendant was interviewed by the Probation Officer on February 13, 1978. Defendant states he does not feel that he will get probation and states he will not make it in the penitentiary.

Defendant states that while at the Duell Vocational Institute in 1978 or 1976 that he was a witness to a murder; that he told the authorities who had committed the murder. Defendant states he will not survive through Folsomville because the above incident involved the Family and Social Service in the State Prison system.

Defendant states that his letters to Vivian were only an attempt to find out if he were really guilty or not. Defendant states he does not think he committed the instant offense; that he was pretty drunk.

Defendant states he has never acted like this before, either in or out of custody. Defendant states that this issue is just not like him.

Defendant states he could stop drinking, would join Alcoholics Anonymous and could behave himself if he were released on seven, five or nine years of probation.

INTERVIEW WITH CALIFORNIA DEPARTMENT OF CORRECTIONS:

Defendant's original commitment to State Prison on November 6, 1958, resulted in defendant being placed in the Correctional Training Facility at Soledad and released on parole on October 29, 1962.

Defendant was violated on parole for not reporting, being drunk, failing to find employment and apparently violating most or all conditions of parole on December 20, 1962, and was returned to San Quentin. In April, 1965, defendant was moved to Folsom Prison, and in May, 1970, defendant was moved to the Duell Vocational Institution.

From February, 1963, through June, 1970, defendant is reported to have experienced twenty-seven disciplinary actions, including at least one period of solitary confinement in October, 1963, when defendant is alleged to have written a love letter to a homosexual inmate resulting in defendant's life being in jeopardy.

At least one parole date was postponed due to defendant's disciplinary actions.

Defendant has been evaluated as an aggressive homosexual and is resistive to therapy.

Defendant was paroled from the Duell Vocational Institute on June 5, 1962. 1972

A burglary conviction caused defendant's parole to be revoked in November, 1972, and defendant was returned to San Quentin. On March 30, 1973, defendant was moved to D.V.I., where he was paroled on May 29, 1973.

A conviction for receiving stolen property, defendant's parole to be revoked on August 15, 1974. Defendant returned to D.V.I. and moved to San Quentin in August, 1974. On September 18, 1974, defendant was returned to J.T.P. On July 24, 1975, defendant assaulted a Correctional Officer and was sentenced to six months in County Jail, to be concurrent with his present prison sentence. On September 16, 1975, defendant was moved to Folsom, where he was discharged on November 6, 1975.

There is no mention in defendant's prison file regarding defendant's witnessing and reporting a homicide in any of the various institutions in which he was placed.

STATEMENT IN AGGRAVATION:

Mitigation, the specifics of which are:

The District Attorney has submitted a Statement in Aggra-

The crime involved acts disclosing a high degree of viciousness or callousness.

The victim was particularly vulnerable.

The defendant induced others to participate in the commission of the crime.

The defendant attempted to interfere with the judicial process in that he attempted to get letters delivered to a witness in which letters he tried to persuade a witness to commit perjury.

With reference to defendant's personal history:

The defendant's prior convictions as an adult are of increasing seriousness.

The defendant has served prior prison terms.

I attach copies of letters intercepted at the jail written by the defendant in which he attempted to suborn perjury.

I believe that the defendant should for the reasons stated herein be sentenced to the upper level term in this case in that circumstances in aggravation are present and they outweigh circumstances in mitigation.

STATEMENT IN MITIGATION:

Mitigation, the specifics of which are:

The Public Defender has submitted a Statement in

At the time of the incident the defendant, YAKIMA KENNETH DIXIE, was under the influence of alcohol and intoxicated and, therefore, not in control of his emotions. In the supplemental police officer's report of Robert

Carson #129 dated December 12, 1977, that Officer reports he gave the defendant an intoxilyzer test to determine alcohol content of defendant's blood at approximately 0045 hours with the result being a .10 reading. A copy of the page of said report is attached hereto. This test was given several hours after the crime was committed. During the course of the preliminary hearing held December 29, 1977, the chief witness for the prosecution who was with the defendant for the period of time between the criminal act and his arrest testified that the defendant had nothing to drink during that period of time except 3 glasses of beer (Page 56, line 22 through Page 57, line 18 of Reporter's Transcript). In addition, said witness, Mrs Viviana Miller, testified that defendant was pretty well drunk at the time of the incident (Page 52, lines 21 and 22 of Reporter's Transcript). It can quite reasonably be concluded from a reading of the officer's reports and the transcript of the preliminary hearing that the defendant had been drinking continuously for approximately 2 days (Reporter's Transcript, page 53, lines 4 through 9) prior to the incident, and, at the time he committed the crime, he was under the influence of alcohol to an extremely substantial degree.

The deceased and the defendant had been arguing for 25-30 minutes immediately prior to the commission of the crime. (Reporter's Transcript, page 42, line 7 through page 43, line 16.) Mrs Miller testified that the defendant, as a result of the argument, got "real mad" at the deceased.

I believe that the defendant was emotionally upset and under the influence of alcohol at the time of the commission of the crime and that these are circumstances of mitigation outweighing circumstances of aggravation.

EVALUATION OF STATEMENTS IN AGGRAVATION AND MITIGATION:

The viciousness of the instant offense appears to be clearly outlined in the above Present Offense.

Victim in this issue was minus one leg, requiring crutches.. to be ambulatory, and had a blood alcohol level of 0.37% at post mortem examination.

Defendant apparently did induce others to participate in the instant offense, as testified to in the preliminary hearing. Viviana Miller appeared to have been coerced by defendant to assist in disposing of the body.

Defendant appears to have attempted to suborn perjury. The contents of the two letters appear to be clearly an attempt to shift blame to defendant's father, Viviana's son or anyone that Viviana could find, at the insistence of defendant.

Defendant was interviewed on 11/11/74, falsely and was given specific instructions in the letter to not to say in such false testimony.

Defendant's prior prison record are clearly outlined in the prior record and the interview with the Department of Corrections above, including his performance while on parole.

Defendant's convictions appear to be increasing in severity. Defendant was awaiting sentencing on an extortion conviction when the instant offense was committed. Defendant's convictions prior to the extortion issue, at least while defendant was free in Society, were crimes involving property, not persons.

It is not known what defendant's blood alcohol level was at the time of the shooting and stabbing. Testimony did support the fact that defendant was "pretty well drunk" and that defendant "got real mad" at the deceased.

However, immediately after the stabbing, defendant is shown with clear intent to dispose of the body and did "drive rapidly" from Sheep Ranch to Avery on one of the most treacherous oiled roads in this county and apparently arrived in Avery without mishap, did dispose of the body, returned to Avery, consumed additional alcoholic drinks, was able to identify the danger that he was in when stopped by the officer after leaving the Avery Hotel Bar, was released by the officer and did drive back to Sheep Ranch, again apparently without mishap.

It would appear that points in aggravation grossly outweigh points in mitigation.

SUMMARY:

Before the Court is a thirty-eight year old male adult, who states he has lived in a common law relationship since July, 1973. Defendant has no children and states that his employment consists of periodic, short-term, part-time jobs.

Defendant's prior record as an adult begins with his being sentenced to State Prison for First degree burglary on November 6, 1958. Three successive parole violations caused defendant to return to State Prison three additional times to finish his original term.

Defendant has served a total of fifteen years and one month in State Prison in multiple movements between four Prison institutions, at least partially motivated by defendant's discipline violations in the institutions.

Defendant has been sentenced on three occasions to County Jail for a total of two years and three months; however, the sentences to jail of September 18, 1972, and July 8, 1974, resulted in parole violations, and the full sentence was not served in the County Jail.

The defendant was taken into custody on December 12, 1977, and ordered seven days in County Jail for the instant offense.

Defendant does not appear to be a candidate for release on probation, pursuant to Section 2602.06(a)(1) of the Penal Code.

The circumstances surrounding the instant offense and defendant's recent conviction for extortion appear to indicate that defendant has now stepped beyond property crimes and is capable and willing to commit acts of coercion and violence upon individuals.

It would appear that Society needs protection from defendant for the longest period of time possible.

It appears that the statements in aggravation outweigh the statements in mitigation, and the highest base term would be appropriate.

The enhancement of personal use of a firearm has been charged and admitted.

Defendant was arrested for the instant offense on December 12, 1977, and has remained in continuous custody since that date. Defendant was sentenced to one year in the County Jail by the Calaveras Justice Court on December 19, 1977, subsequent to conviction.

On February 21, 1978, defendant will have served seventy-two (72) days in regard to the instant offense. The last sixty-four (64) days will have been concurrent with defendant's one year County Jail sentence.

RECOMMENDATION:

It is respectfully recommended that defendant be sentenced to State Prison at the higher base term of eighty-four (84) months, and that the enhancement of twenty-four (24) months be added.

DATED this 14th day of February, 1978.

Respectfully submitted,

*E. B. Noble*

E. B. NOBLE, Probation Officer

The foregoing report has been read and considered

*Paul S. Hubert*  
Judge of the above-entitled Court