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Gary Windom (#86775)  
Public Defender  
Addison Steele (#192534)  
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**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF RIVERSIDE  
DEC 28 2007

**SUPERIOR COURT OF CALIFORNIA**  
**COUNTY OF RIVERSIDE**

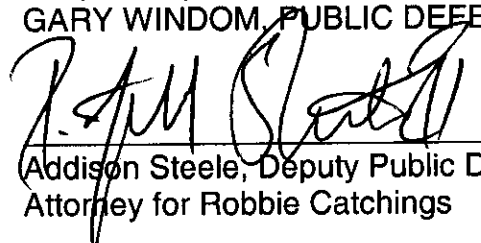
PEOPLE OF THE STATE OF CALIFORNIA,  
  
Plaintiff,  
  
vs.  
  
ROBBIE CATCHINGS  
DOB 02.20.69,  
  
Defendant.

Case No.: SWF006186  
  
NOTICE OF MOTION AND  
MOTION FOR REDUCTION TO  
MISDEMEANOR PERSUANT TO  
PENAL CODE SECTION 17(b).  
  
DATE: January 7, 2008  
TIME: 8:30 a.m.  
DEPT: Dept. 61, Judge Couzens

TO: ROD PACHECO, DISTRICT ATTORNEY OF THE COUNTY OF RIVERSIDE, DEPUTY  
DISTRICT ATTORNEY DAVID TAHAN; AND THE CLERK OF THE SUPERIOR  
COURT:

PLEASE TAKE NOTICE that on January 7, 2008, or as soon thereafter as the matter  
may be heard, defendant Robbie Catchings through his attorney the Public Defender by  
Deputy Public Defender Addison Steele will move the court to reduce both counts of the  
Information to a misdemeanors pursuant to California Penal Code Section 17(b).

Dated: December 28, 2007

Respectfully submitted  
GARY WINDOM, PUBLIC DEFENDER  
  
Addison Steele, Deputy Public Defender  
Attorney for Robbie Catchings

1 **MEMORANDUM OF POINTS AND AUTHORITIES SUPPORTING DEFENDANT'S MOTION**  
2 **TO REDUCE CHARGE TO MISDEMEANOR**

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4 I  
5 **STATEMENT OF THE CASE**  
6

7 In November of 2003 Mr. Catchings was an inmate in the Riverside County Southwest  
8 Detention awaiting trial on his case in which he was acquitted of all counts. The Southwest jail  
9 is racially segregated and the correctional officers have developed an informal trustee system  
10 where they assign one inmate from each racial group in each pod to keep the peace within  
11 each racial group. Mr. Catchings had been so designated. On November 10, 2003, Mr.  
12 Catchings engaged in an argument with Bryant Griffin over Mr. Griffin staying on the  
13 telephones for too long because one person using more than his allotted time on the  
14 telephones can lead to violence between inmates in the pod. The telephones are right in front  
15 of the correctional officers' booth about twenty to twenty-five feet away. The argument was so  
16 subdued that none of the correctional officers even noticed it.

17 After the argument, Mr. Griffin went to take a shower. While he was in the shower he  
18 fell and hit his forehead causing a small cut above his left eye. He also had bruising on his left  
19 elbow and left leg which would be consistent with falling on his left side in the shower and  
20 inconsistent with being hit on the left side of his face and falling on the right side of his body  
21 from the force of the blow. Another inmate, Michael Washington, saw Mr. Griffin enter the  
22 shower uninjured, saw him fall, and saw that he had the injury over his eye when he left the  
23 shower. Mr. Griffin then went to Correctional Officer Alonso Tovar and reported that he had  
24 fallen in the shower and needed medical attention. C.O. Tovar then took Mr. Griffin aside and  
25 asked him if something different had happened. Mr. Griffin then realized that he could take  
26 over Mr. Catchings' job as the informal trustee by reporting that Mr. Catchings had hit him—  
27 causing Mr. Catchings to be moved to a different pod, and at the same time get revenge  
28 because a "homeboy" of Mr. Catchings' was snitching on his (Mr. Griffin's) brother. In order to

1 accomplish these two ends Mr. Griffin told C.O. Tovar that Mr. Catchings had hit him a single  
2 time and that "he did not want to testify in the case."

3 C.O. Tovar wrote in his Report that he then talked to Mr. Griffin's cellmate, Jasper  
4 Bates. He wrote in his report that he personally talked to Mr. Bates and that he said he saw a  
5 single punch from Catchings on Mr. Griffin. Mr. Bates was subsequently called at the  
6 preliminary hearing in this case and testified that he never even talked to C.O. Tovar, but that  
7 he had talked to a different correctional officer that suggested that he say that he witnessed  
8 Mr. Catchings punch Mr. Griffin and that he would be rewarded for telling that story with extra  
9 commissary items. Mr. Bates then declined the correctional officer's offer to make a false  
10 witness statement and went about his business only to find out at the preliminary hearing that  
11 statements were attributed to him that he did not make.

12 Another inmate, Robert Evans, talked to Mr. Griffin after the incident and asked him  
13 what had happened to his eye. Mr. Griffin told Mr. Evans that he had fallen in the shower but  
14 that the correctional officers thought that Mr. Catchings had hit him. When Mr. Evans further  
15 inquired as to why the correctional officers had false information, Mr. Griffin told him that a  
16 "homeboy" of Mr. Catchings "is snitching on his brother" and therefore, "Fuck him," referring to  
17 Mr. Catchings. Mr. Griffin was subsequently sent to prison and until recently was living in a  
18 secured housing unit at Pelican Bay State Prison. He gave a statement to a defense  
19 investigator that he intends to refuse to testify if called as a witness by the prosecution.

20 Mr. Catchings has been charged with one count of a violation of Penal Code § 243(d),  
21 battery with serious bodily injury and one count of a violation of Penal Code § 245(a)(1) with a  
22 special allegation of great bodily injury. There are also two prison priors, two five year serious  
23 offense priors and two strikes alleged. Mr. Catchings is facing a sentence of thirty-five years  
24 to life for this incident.<sup>1</sup>

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27 <sup>1</sup> Mr. Catchings has two five year serious prior conviction enhancements pursuant to Penal Code § 667(a) alleged  
28 that are also alleged as strike priors, as well as alleged as one year prison prior enhancements pursuant to Penal  
Code § 667.5(b). However the two prison prior allegations are from the same prison sentence as the two serious  
priors and the court cannot sentence Mr. Catchings for both of the priors, *People v. Jones* (1993) 5 Cal.4th 1142.  
Therefore his maximum sentence is thirty-five years to life, not thirty-seven years to life as it would appear with a  
cursory look at the charges.

1 Deputy District Attorney David Tahan has informed defense counsel that the photos of  
2 the alleged injury to Mr. Griffin were destroyed. There are now only grainy black and white  
3 photocopies of the injuries.

4  
5 II

6 **POINTS AND AUTHORITIES**

7  
8 Mr. Catchings urges that the charges in counts one and two, an alleged violation of  
9 Penal Code §§ 243(d) and 245(a)(1), really are misdemeanors that the prosecutor should  
10 have charged as such. California Penal Code section 17(b) gives the court the authority to  
11 exercise its discretion and reduce a charge that is filed as a felony to a misdemeanor when the  
12 charged felony is a "wobbler," a crime that can be charged either as a misdemeanor or a  
13 felony. Penal Code § 17(b) reads as follows:

14  
15 17(b) When a crime is punishable, in the discretion of the court, by  
16 imprisonment in the state prison or by fine or imprisonment in the county jail, it is  
17 a misdemeanor for all purposes under the following circumstances:

18 (1) After a judgment imposing a punishment other than imprisonment in the state  
19 prison.

20 (2) When the court, upon committing the defendant to the Youth Authority,  
21 designates the offense to be a misdemeanor.

22 (3) When the court grants probation to a defendant without imposition of  
23 sentence and at the time of granting probation, or on application of the  
24 defendant or probation officer thereafter, the court declares the offense to be a  
25 misdemeanor.

26 (4) When the prosecuting attorney files in a court having jurisdiction over  
27 misdemeanor offenses a complaint specifying that the offense is a  
28 misdemeanor, unless the defendant at the time of his or her arraignment or plea

1 objects to the offense being made a misdemeanor, in which event the complaint  
2 shall be amended to charge the felony and the case shall proceed on the felony  
3 complaint.

4 (5) When, at or before the preliminary examination or prior to filing an order  
5 pursuant to Section 872, the magistrate determines that the offense is a  
6 misdemeanor, in which event the case shall proceed as if the defendant had  
7 been arraigned on a misdemeanor complaint.

8  
9 In deciding whether to exercise discretion under § 17 of the Penal Code, the Court may  
10 consider not only the offender's guilt, but also his or her potential for rehabilitation balanced  
11 against the community's need for protection, as well as the past life and habits of the  
12 defendant. (*People v. Smith* (1968) 259 Cal.App.2d 868, 873.) Relevant factors include the  
13 nature and circumstances of the offense, the defendant's appreciation of and attitude toward  
14 the offense, his or her traits of character, the protection of society, punishment of the  
15 defendant, encouraging the defendant to lead a law abiding life in the future and deterring him  
16 or her from future offenses, deterring others from criminal conduct by demonstrating its  
17 consequences, preventing the defendant from committing new crimes by isolating him or her  
18 for the period of incarceration, and securing restitution for the victims of crime. (*People v.*  
19 *Superior Court (Alvarez)* (1997) 14 Cal.4th 968, 978; Cal. Rules of Court, rule 410.)

20 The court's discretion when exercised under Penal Code § 17(b) is not reviewable by  
21 an appellate court when an appeal or writ is brought by the plaintiff. The prosecution can only  
22 appeal when an appeal is provided for by statute. *People v. Douglass* (1999) 20 Cal.4th 85,  
23 89. The California Supreme Court made this rule absolutely clear in *People v. Williams* (2005)  
24 35 Cal.4th 817; 28 Cal.Rptr.3d 29; 110 P.3d 1239. In that case, Willis Williams was, as Mr.  
25 Catchings is now, charged with violations of Penal Code §§ 245(a) and 243(d). At the  
26 conclusion of the preliminary hearing the judge reduced the charges to misdemeanors

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1 pursuant to Penal Code § 17(b).<sup>2</sup> The plaintiff attempted to reinstate the felony Complaint  
2 pursuant to Penal Code § 871.5, which was denied. The plaintiff in turn appealed the denial of  
3 that motion. The *Williams* court cited and quoted *People v. Superior Court (Howard)* (1968)  
4 69 Cal.2d 491, 497-498 that the "restriction on the People's right to appeal . . . is a substantive  
5 limitation on review of trial court determinations in criminal trials" and that appellate "review at  
6 the request of the People necessarily imposes substantial burdens on an accused . . ." *Ibid* at  
7 p. 823. It is one hundred percent the court's discretion and only the court's discretion that  
8 determines whether the charges against Mr. Catchings are in fact misdemeanor conduct and  
9 that discretion cannot be second guessed.

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11 **III**

12 **THE CASE AT HAND**

13  
14 In this matter, Mr. Catchings at worst was involved in a jail fight and at best was falsely  
15 accused by a fellow inmate in order for that inmate to secure some additional comfort while in  
16 jail. The evidence against Mr. Catchings is weak. He has already been in the Riverside  
17 County jail for more than five years, four months on a case in which he was acquitted of all  
18 charges.

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20 **IV**

21 **ROBBIE CATCHINGS**

22  
23 Mr. Catchings is thirty-eight years old (DOB 02/20/69). He was born at Dominguez  
24 Valley Hospital in Los Angeles. Robbie was the youngest of three children. His father, Freddy  
25 Catchings and his mother Evelyn Catchings separated when Robbie was about four years old  
26 because Freddy was beating his mother. The family eventually got to the point where they  
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<sup>2</sup> It appears that the judge misstated on record that the reduction was pursuant to Penal Code § 1385, however the Minutes correctly reflected that the reduction was pursuant to Penal Code § 17(b). *People v. Williams*, *ibid* at p. 821.

1 were hiding from Freddy because he would take Robbie and Michelle, Robbie's older sister,  
2 without letting anyone know where they were. His mother had to work as many hours as  
3 possible as a night building janitor and as a cook so she could do her best to make ends meet  
4 for her family. About ten years after his parents separated his father was shot and killed in  
5 Compton.<sup>3</sup> Robbie's mom always worked to keep a roof over her family's head and make  
6 sure they had food. She knows that they didn't have what the other kids may have had, but  
7 she's proud that she never ever went on public assistance. Robbie went to elementary school  
8 in South Los Angeles in the Eleven Eight East Coast Crips territory. By middle school Robbie  
9 and his friends were calling themselves Eleven Eight East Coast Crips. When Robbie was  
10 sixteen, his older brother Freddy Junior was sent to prison for life for murder. His brother  
11 getting sent to prison for life was particularly hard on Robbie because Freddy Junior, who was  
12 only four years older, was the only father figure that he had in his life.

13 Robbie dropped out of high school in the tenth grade because he was sent to Juvenile  
14 Hall. He attended school while in Juvenile Hall but did not graduate. Once Robbie turned  
15 eighteen he was just hanging out with the other young gang members in his neighborhood. By  
16 the time he was twenty-three years old he had been sentenced to prison for twelve years.  
17 Those strike crimes from when he was in his early twenties were the last violence on his  
18 record. When Robbie got out he decided to leave the Eleven Eights in his past. He started  
19 working as a mechanic. He then got the driving without the owner's permission conviction  
20 which stemmed from him driving a rental car that was kept beyond the contract. Robbie  
21 borrowed the car from a friend and didn't suspect that there was any problem with it because  
22 there were no indicia that it was stolen and it had a key. Up until that case, Robbie didn't  
23 realize that he had two strikes. Because he had pled to both strikes at the same time, he  
24 thought he only had one strike. He pled guilty because he could have gone to trial and risked  
25 a life sentence, or he could have accepted the District Attorney's generous offer, which was  
26

27 <sup>3</sup> Robbie's mother doesn't know the details of Freddy being shot other than it had something to do with a bar fight and Freddy  
28 getting shot in the mouth. Robbie is under the impression that his father was shot when he was four, not fourteen as is  
actually the case. His mother says that they just don't talk about his father because he beat her. She knows that the two older  
children were old enough to see and understand the abuse from her husband, but she thinks Robbie was too young to  
remember, however she also knows that Robbie's never asked her anything about his dad.

1 obviously so generous because there were proof problems with the case, of striking both  
2 strikes with upper term of three years at fifty percent.

3         While Robbie was in prison he contacted the Federal Bureau of Investigation and  
4 offered his help because he knew they were investigating Paris "Old Man" Miller for a string of  
5 killings in South Los Angeles. According to testimony from Special Agent Patrick Sullivan at  
6 Robbie's two homicide trials, he was Robbie's handler and Robbie was working toward the  
7 goal of convicting Mr. Miller and then relocating to start his life over away from the Eleven  
8 Eight East Coast Crips. Robbie wore a wire in the Riverside County Jail and was placed in a  
9 cell with a homicide suspect in an attempt to get an admission from the suspect. Robbie was  
10 not given, nor did he ask for, compensation for working the FBI on that case. Once he was  
11 out of prison, Robbie was a paid operative for the FBI, although he was only paid as much as  
12 would meet his basic living expenses. His task was to eventually infiltrate the Eleven Eight  
13 East Coast Crips' highest levels in order to end the homicides in his neighborhood and gather  
14 enough evidence to convict Mr. Miller of the roughly six homicides the FBI believed he  
15 committed. Robbie was clearly making strides to improve his prospects. His homicide case  
16 for which he was acquitted stemmed from "Old Man" and Robbie's best friend George  
17 "Scooby" Bender shooting at Robbie over what he eventually came to believe was "Old Man"  
18 finding out that he was working for the FBI or in some other way was snitching to the detriment  
19 of the "Old Man." The jury acquitted Robbie of the murder of "Scooby," the attempted murder  
20 of another long time Eleven Eight East Coast Crip, Anthony "Red Capone" Lowe, and of being  
21 a felon in possession of a firearm, and therefore found that Robbie was defending himself and  
22 did not go to the scene armed.

23         Right now Robbie is working for Darnell Thompson, an independent trucker, loading  
24 and unloading trucks. He has prospects for getting work laying cement. He has met with a  
25 counselor at Maxine Waters vocational school at 109th Street in South Los Angeles. He also  
26 married Cassandra Catchings in 2003 while in jail and now has a much more settled life as a  
27 family man than when he was young and running with gang bangers. He has four step-  
28 daughters with Cassandra. The two oldest, Cionni and Sierra Shepard are eighteen year old



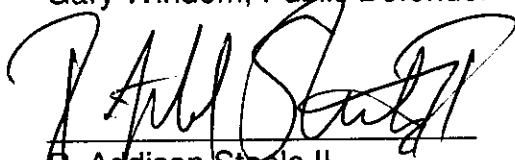
1 twins. The two youngest, Jeta and Jetia Shepard are fifteen year old twins. The two older  
2 girls are Riverside Community College students and Robbie goes with his wife every morning  
3 on their routine to drop them off at various times and places for all their classes.

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5 V

6 **CONCLUSION AND REQUEST FOR RELIEF**

7  
8 For the foregoing reasons, Mr. Catchings respectfully requests that the Court grant the  
9 within motion and reduce the charges in counts one and two against him from felonies to  
10 misdemeanors pursuant to section 17(b) of the Penal Code.

11 Dated: December 28, 2007

12 Respectfully Submitted,  
13 Gary Windom, Public Defender  
14   
15 R. Addison Steele II  
16 Deputy Public Defender  
17 Attorney for Robbie Catchings

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**PROOF OF SERVICE**

I, Addison Steele, declare:

I am a citizen of the United States and a resident or an employee of the County of Riverside; I am over the age of eighteen years and not a party to the within-entitled action.

That on December 28, 2007, I caused a copy of the within:


NOTICE OF MOTION AND MOTION FOR REDUCTION TO MISDMEANOR PERSUANT TO PENAL CODE SECTION 17(B) to be served on the following:

Clerk of the Superior Court  
Riverside Superior Court  
4100 Main Street  
Riverside, CA 92501

Rod Pacheco  
District Attorney  
4075 Main Street  
Riverside, CA 92501

I declare under penalty of perjury that the foregoing is true and correct.

Executed: December 28, 2007, at Riverside, California.

  
Addison Steele/Declarant  
Attorney for Robbie Catchings