

Although the system is broken, Newsom's move isn't the answer

By Arash Hashemi

As a defense attorney, I'm against the death penalty. But as a private citizen, I'm for it.

Some might say that it's impossible for one person to hold two diametrically opposed views on a single issue, but as part of our professional duties, all attorneys have to separate our personal feelings from our work. State governors, too, should possess that same ability, but it appears Gov. Gavin Newsom does not.

There has been more than one occasion in my professional life in which I have been tasked with defending someone who has done horrendous things. But I am capable of separating my personal feelings from my legal responsibilities. It's my job to defend people and make sure their rights are upheld and the system is working. That is my obligation to my clients. And it's the governor's job to uphold the rights of the state residents, and to make

sure their voices are heard, not ignored. That is his obligation to the citizens of California.

Newsom knew this at one point. In a 2016 interview with the editors of the Modesto Bee, candidate Newsom said he would honor the expressed wishes of California voters. Yet after just three months in office, and just two years after voters approved a ballot measure to maintain capital punishment in the state and speed up the appeals process, Gov. Newsom has broken his promise.

"If ever I was in any position to actually be accountable," then-candidate Newsom said in the interview, "I would be accountable to the will of the voters. I would not get my personal opinions in the way of the public's right to make a determination of where they want to take us, as it relates to the death penalty."

Yet once he took office, Newsom explained away his flip-flop by saying that previously, the death penalty had been "an abstract question" that, in Newsom's mind, only recent-

ly became a "very real question."

It's extremely difficult to believe that Newsom had never considered capital punishment and the long-standing, swirling debate around it a "real question" until just this month. Was he asleep during the entire 2016 Prop. 66 campaign?

That ballot initiative, with the tagline "Mend, don't end, the death penalty," may not have solved the many problems that bog down death penalty appeals in this state, but it clearly signaled the will of the voters to maintain capital punishment.

As a citizen I support capital punishment because I believe it holds a powerful deterrent value. But I see serious flaws with Prop. 66's approach. The measure's methods of expediting appeals were impractical and unrealistic. Further, when the California Supreme Court upheld Prop. 66, they recognized that its provisions were directive, rather than mandatory. That meant the state was under no obligation to actually follow its suggested fixes, so

the law had no real teeth.

The only positive aspects of Prop. 66 were its changes to qualifications required of attorneys who represent condemned inmates. It placed the California Supreme Court in charge of appointing appellate lawyers to capital cases, and its requirement that qualified attorneys accept capital cases as a condition for remaining on the court's appointment list, which would significantly raise the number of attorneys available for death penalty appeals. However, this would only have worked if those attorneys who did not want to be appointed to capital cases did not voluntarily leave the court's appointment list. The danger would be if attorneys opposed to capital punishment chose to walk away from the appointment list in droves — another one of Prop. 66's shortcomings.

But the initiative's flaws don't negate the fact that the state's voters sent a clear signal: they want the death penalty to remain an option. This should be the primary, "very

real" question for Newsom to consider when making decisions — not his personal discomfort with the idea of capital punishment. Professionals must put their personal feelings aside, and elected officials must put their citizens first.

Many thinking people feel torn about the death penalty, but few disagree that the current system is broken, and needs to be fixed. At present, since California has not executed anyone for a decade, the death penalty is little more than an intellectual exercise. But there is much to consider: those who have been exonerated after flawed prosecutions landed them on death row. The families of victims who need to find closure. The most workable, humane method of execution. A practical path for eliminating stumbling blocks in the appeals process.

Although I disagree with Newsom's move, it does represent an opportunity. Now that executions have been brought to a halt, it's a chance

for all of us to step back and take the remainder of his term — more than three full years — to fully and calmly scrutinize all aspects of capital punishment. If we can't come up with answers in that span of time, maybe it's time to re-examine the question.

Arash Hashemi is a Los Angeles criminal defense lawyer and the host of "Flashing Out the Law" podcast.



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