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100 SECTION B

SAN JOSE

1980 death sentence set aside

Defendant shouldn't have been shackled in front of jury, judge rules

By Howard Mintz
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Three decades after being sentenced to death for a San Jose liquor store murder, Marvin Pete Walker Jr. may have gotten his ticket off death row and perhaps out of San Quentin altogether.

In a recent ruling, an Oakland

federal judge set aside Walker's 1980 murder conviction and death sentence, concluding that he had been improperly shackled in front of the jury throughout his trial, tainting the verdict and violating legal precedent barring the shackling of defendants without exceptional circumstances. The ruling means that one of San Quentin's longest-serving death row inmates could be spared execution or even freed.

Walker, now 51, was sentenced to die for the August 1979 fatal



Walker

two other liquor store employees during a \$150 holdup.

State deputy attorney general Bruce Ortega said he was "sur-

prised" by the ruling, released on March 31 by U.S. District Judge Sandra Brown Armstrong, a 1991 appointee of President George H.W. Bush. Attorney General Kamala Harris' office has until Friday to decide whether to appeal the ruling to the 9th U.S. Circuit Court of Appeals.

If state lawyers decide against an appeal, the judge gave Santa Clara County prosecutors the choice of retrying the 31-year-old case, or releasing Walker. Deputy district

attorney James Leonard, who is handling the case for the DA's office, said at this point local prosecutors support the attorney general's move to consider an appeal and declined to comment further.

Nanci Clarence, Walker's lawyer, could not be reached for comment.

Walker's case has bounced through the state and federal courts for years, part of the typically slow

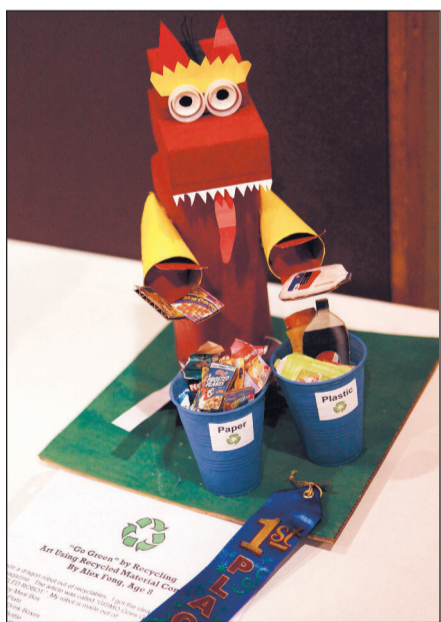
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CELEBRATION IN JAPANTOWN



MARIA J. AVILA LOPEZ / MERCURY NEWS PHOTOGRAPHS

A day for the Earth



Top: Stan Kawamata, far left, teaches visitors Daryl Lum, of Sunnyvale, Susan Uehara, of Milpitas, Zachary Muraoka, 5, and his father Mark Muraoka, of San Jose, how to compost with worms during the San Jose Buddhist Church EcoSangha celebration Sunday for Earth Day. **Above:** Shanna Haodin, 6, and her brother Steven, 8, of San Jose, and Kennie Sredanovich, 7, of Saratoga, play with windmills made of recycled goods at the church. **At left top:** Star- and heart-shaped crayons made from recycled crayons and, **left below,** a toy made of recycled paper by Alex Fong that was awarded a first-place ribbon were among the items exhibited at the celebration at 640 North Fifth St. in San Jose's Japantown.

SAN JOSE

Police face suits over use of force

The two latest cases allege officers were overly aggressive

By Sean Webby

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The San Jose Police Department is facing new allegations of excessive force and racial profiling, this time leveled within two federal lawsuits.

One of the suits alleges that an officer parked his patrol car on a man suspected of fighting. The other alleges that officers busted a man's eye socket and arrested his sister after she complained he hadn't resisted.

The suits detail allegations of cases that happened two and three years ago. But they come at a time when the SJPD is trying hard to soften what some see as an aggressive, even violent, reputation.

City attorneys and police have denied the allegations of the suits, but declined to comment further.

The plaintiffs in both cases are Latino. "I believe they know there is a problem of overaggressive policing, particularly when it comes to unarmed Hispanic suspects," said attorney Sharonrose Cannistraci, who represents the plaintiffs. "And they are not

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RECORD DEPORTATIONS

Liberals push Obama on immigration

Illinois congressman visits Bay Area to highlight issue

By Matt O'Brien

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OAKLAND — Reflecting growing liberal frustration with President Barack Obama's lack of progress on immigration reform, a Democratic congressman from his home state of Illinois is barnstorming through the Bay Area this week to demand the administration slow down its record-high number of deportations.

"He's our champion," said U.S. Rep. Luis Guterierrez, who lands in the Bay Area on Tuesday. "He's the one we want to support. But there's a community of people he made a promise and commitment to, and we want him to keep it."

Obama continues to get high popularity ratings from Latinos and most immigrant groups, but Guterierrez is among a growing chorus of immigrant advocates who have expressed waning enthusiasm as the president

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Spirit of 19th-century Paris comes alive in Opera San Jose's soulful 'La bohème'

Tale of love and tragedy is beautifully sung by a cast talented, eager and natural

By Richard Scheinin
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Opera San Jose's revival of Puccini's "La bohème" is honest, soulful and beautifully sung. It breezes along, this production directed by Timothy Near: The familiar tale of unstoppably spirited young bohemians in 19th-century Paris just bursts forth on stage, giving us their eagerness for living, their appetites for camaraderie and love, as well as

OPERA REVIEW

their poverty and sad fate.

This is a popular opera made doubly accessible because the cast at the California Theatre is so clearly at ease, enjoying the experience of living the story. Saturday night's opening performance had more than its share of stars, beginning with soprano Jasmina Halimic, as Mimì, the doomed seamstress. She gave this role full measure, unspooling Puccini's sparkling song with unrushed control and exquisite lyric tone, topping her phrases with plush and expansive high notes.

And making us believe — she did this, too, with the help of tenor Alexander Boyer, in the role of her lover Rodolfo, the poet.

A touching couple, the two seem naturally suited to these roles: "Love blossoms from our exultant souls," sang Boyer (in Italian, of course), and one could feel the blooms of romance. He hit an occasional hitch, not quite carpeting long-drawn phrases with the necessary power, but that's a quibble, as Boyer's singing has grown so warmly melodious and impassioned in his time with

See BOHEME, Page 5



COURTESY ROBERT SHOMLER

Alexander Boyer and Jasmina Halimic star as the young lovers Mimì and Rodolfo in Opera San Jose's "revival of Puccini's La bohème," a production that is both honest and soulful.

NEW POLL

Voters back pension curbs

Majority surveyed favor concessions from public workers

By Shane Goldmacher
Los Angeles Times

SACRAMENTO — California voters want government employees to give up some retirement benefits to help ease the state's financial problems, favoring a cap on pensions and a later age for collecting them, according to a new poll.

Voter support for rolling back benefits available to few outside the public sector comes as Gov. Jerry Brown and Republicans in the Legislature haggle over changes to the pension system as part of state budget negotiations. Such benefits have been a flashpoint of national debate this year, and the poll shows that Californians are among those who perceive public retirement plans to be too costly.

Voters appear ready to embrace changes not just for future hires but also for

current employees who have been promised the benefits under contract.

Seventy percent of respondents said they supported a cap on pensions for current and future public employees. Nearly as many, 68 percent, approved of raising the amount of money government workers should be required to contribute to their retirement. Increasing the age at which government employees may collect pensions was favored by 52 percent.

Although pension costs today account for just a fraction of the state budget, they are putting local governments under considerable financial strain, and analysts say effects on the state may not be far off.

"It's pretty clear that there's broad support for making changes in the area of pensions," said Democratic pollster Stanley Greenberg, who co-directed the bipartisan poll for the Los Angeles Times and the Dornsife College of Letters, Arts and

Sciences at the University of Southern California.

Many public safety officers can retire at 50 with a pension equal to 3 percent of their final salary for each year worked — for example, 60 percent of salary after 20 years on the job. Many other state employees can retire at 55, with 2.5 percent of salary for each year worked. And tens of thousands of public workers may also purchase "air time" — credit for years they do not actually work — to boost their retirement income.

Guaranteed pensions have faded from corporate America in recent decades, replaced largely by 401(k) accounts that workers pay into and that rise and fall based on the fluctuations of financial markets. Voters back an integration of such plans into the government retirement system, with 66 percent supporting a blend of the traditional pension and a 401(k).

The public sentiment is a cause for concern for orga-

nized labor. Public employee unions that spent millions of dollars helping to elect Brown are working aggressively to keep their pensions intact. But the governor has made clear that he believes they must make concessions as the state struggles.

Some state and local public employee unions have already agreed to some changes, such as a delay in the retirement age for new hires.

"It's one thing for Republican governors in Wisconsin and Indiana to support these types of changes, but seeing this type of support from California voters, even California Democrats, is really remarkable," said Dan Schnur, director of the Jesse M. Unruh Institute of Politics at USC and a former GOP strategist.

Among Democratic respondents, 71 percent supported increasing retirement contributions for future hires and 66 percent backed a pension cap for both current and future workers.

Marine mammals released back to sea

By John Sammon
Monterey County Herald

For six marine mammals, the rush of saltwater over mossy green rocks and the spray of the surf must have been a familiar sensation as they left the realm of people behind.

"We're giving them a second chance they never would have had," said Susan Andrews, manager of the Marine Mammal Center's Monterey Bay operations in Moss Landing.

On Thursday, Andrews and six volunteers released a sea lion and five elephant seal pups on a beach at Point Lobos State Reserve south of Carmel.

The animals spent a month in rehabilitation after being found malnourished

on area beaches.

"Somehow, they got off to a bad start," Andrews said. "We got them at 6 weeks old."

The Moss Landing facility is a triage center for marine mammals found sick or injured.

After initial treatment, animals are trucked to the main hospital in Sausalito for more extensive care.

"The first 24 hours is critical," Andrews said. "If they come in malnourished and dehydrated, we give them fluids, electrolytes and vitamins. Maybe even a little Kaopectate if they have an upset tummy."

Andrews said the animals are initially given a mixture of mother's milk substitute and ground-up fish before

they are taught to eat fish. They eventually learn by having a fish dangled in front of them.

"When they're ready, we put live fish in a pool and the seals catch and eat them," she said. "We teach them to track fish. Before release, they are also given a veterinary exam and blood test."

Two animals were picked up on beaches in Monterey County. The Marine Mammal Center rescues animals along a 600-mile stretch of coast from San Luis Obispo to Mendocino.

"These animals should be over 200 pounds, and when they came to us they weighed only 70 pounds," Andrews said. "They're supposed to lie on the beach and grow teeth and muscles be-

fore playing in tide pools and entering the water. They didn't have that option."

The pups may have been separated from their mothers too early, or the mother couldn't produce sufficient milk.

"Usually the mother separates from the pup at 4 weeks old," Andrews said. "Pups have to learn on their own by trial and error, but they need the blubber layer to do it."

Andrews said Point Lobos was selected as a release point because of its secluded beaches. She expected the sea lion to move into the water faster than the larger elephant seals. Sure enough, upon release, the sea lion moved steadily seaward and disappeared.

Bohème

Continued from Page 1

the company.

His singing goes down easy, in other words, as does this production. It has a pair of rotating casts, by the way. The second cast (which I haven't seen; it debuted Sunday as I wrote these sentences) includes soprano Jouvanca Jean-Baptiste as Mimi (gripping last fall in the lead role of "Anna Karenina") and lusty tenor Christopher Bengochea, a former resident with the company, returning as Rodolfo.

He sang that role in 2006, when this production debuted, then directed by David Cox. It was a pleasure back then.

Near, who was artistic director of San Jose Rep for 22 years, has increased the pleasure with buoyant pacing, a detailed eye for ensemble interaction (the high jinks feel spontaneous) and a heightened sense of naturalism. That is abetted by the delicious costume designs by Barbara Barrett and Patricia Havey (coordinated here by Alyssa Oania) and the sets (including new ones in Acts I and IV) by Kim A. Tolman, which strongly evoke popular imaginings of 19th-century Paris.

Feast for senses

Saturday's second act, set in the Latin Quarter outside the fictitious Café Momus, was perhaps the richest feast for the senses that I've witnessed in an Opera San Jose performance. It was a riot of colors, matching the sparkling motion of Puccini's music — conducted by David Rohrbaugh, the orchestra played marvelously — as the square filled with crowds of vendors and frolickers, including a juggler on stilts.

So many elements were coming together: the orchestra, the dancing, the singing choruses (adults and children, directed by Andrew Whitfield), interweaving with the ensemble numbers involving half a dozen or more leading-role singers, partying with Champagne and delicacies (they can't afford any of it, of course) outside

LA BOHÈME:

Opera San Jose

Through: May 8

Where: California Theatre, 345 S. First St., San Jose

Tickets: \$51-\$101, 408-437-4450, www.operasj.org

the café. And into this maelstrom of pleasure walked soprano Sandra Rubaleava Bengochea as Musetta, the woman about town, decked out in feathers and furs. A former resident artist, Bengochea sang "Quando me'n vo," the famous waltz, with lustrous voice and vivacious sophistication.

It was a showstopper. (Soprano Jillian Boye is Musetta in the other cast.)

Powerful cast

The third act, set at the city gate, failed to evoke the bone-rattling cold of the Parisian winter. Where was the snow, Ms. Near?

But there weren't many glitches in this performance. The cast was strong across the board, especially the other bohemians, Rodolfo's pals, who refuse to let their harrowing poverty and stone-cold garret get them down — not until the final act, though I won't give away the ending. (If you've seen the musical "Rent," inspired by "La bohème," you already know it.)

As the musician Schumann, baritone Daniel Cilli (another ex-resident) was jaunty and charming, singing out his love of life. As Coline, the philosopher, bass-baritone Isaiah Musik-Ayala mellifluously shone through "Vecchia zimarra," his ode to an old coat. And baritone Torlef Borsting, as the painter Marcello, was richly resonant and impassioned, going toe-to-toe in his duets with Boyer.

Maybe it was an acoustical anomaly in the theater, but these three seemed to lack some punch in their lower registers.

They made up for it as an infectious ensemble (with Boyer in tow), charming the socks off the audience, a special part of this special production.

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