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# DA Dumanis Files Civil Lawsuit to Reinststate Nunez 16-Year Prison Sentence

## *Unprecedented Civil Lawsuit Cites Marsy's Law as Legal Basis*

San Diego County District Attorney [Bonnie M. Dumanis](#) announced today her office has filed a civil lawsuit in San Diego County Superior Court, seeking to nullify the Governor's commutation of Esteban Nunez' prison sentence. The lawsuit is believed to be the first-of-its kind in the nation filed by a District Attorney on behalf of the victims.

Nunez pled guilty to three felony charges in connection with his role in the assault on four young men, including Luis Santos who died as a result of the attack. Nunez was sentenced to 16 years in state prison. On his last day in office, Governor Arnold Schwarzenegger commuted Nunez's sentence to seven years.

"Once again, we are going to court seeking justice for the victims in this case—Luis Santos, Evan Henderson, Keith Robertson, Brandon Scheerer and their families." said DA Dumanis. "A governor who is considering a commutation has a constitutional duty under Marsy's Law to include the voices of the victims. In this case, that clearly didn't happen."

The civil suit names the Governor of California, Director of the California Department of Corrections and Rehabilitation, and Warden of Mule Creek State Prison as defendants and respondents and Esteban Nunez as a real party of interest. In the suit, the DA's Office argues that the Governor was constitutionally obligated to notify the victims of crime of his intent to commute a sentence and provide them with an opportunity to be heard. As a result of the Governor's failure to do that, the victims' constitutional rights were violated and the Governor's Executive Order commuting Nunez' sentence is void and unenforceable.

Nunez, along with a co-defendant, pleaded guilty in 2010 to voluntary manslaughter and assault with a deadly weapon. The assault occurred during a fight near San Diego State University that left Luis Santos dead from knife wounds and three other victims injured. Nunez' guilty plea was accepted by the court with no promises for leniency and he was sentenced to 16 years in state prison for his crimes. Nunez' case was being appealed when the commutation was suddenly announced by Governor Schwarzenegger on his last day in office. Victims in the case learned of the commutation through news reports.

(more)

“Marsy’s Law was designed to keep people from being re-victimized and the former Governor’s action violated that law,” said DA Dumanis. “We don’t argue with the Governor’s constitutional ability to grant pardons or commutations. Historically, the Governor was entrusted with this power in order to represent the conscience of the community and to insure against miscarriages of justice. Instead, this last-minute commutation made without all the facts or input from the parties, only fueled the public’s mistrust of government and greatly diminished justice.”

“I support the effort of the District Attorney to achieve justice for the victim's family and all of San Diego,” said City Attorney Jan Goldsmith.

Earlier this year, the District Attorney’s Office also announced support of Assembly Bill 648, which would require the applicant for a commutation of sentence notify the District Attorney 30 days before the governor acts upon the application. The District Attorney must then notify the victims, and both the District Attorneys and the victims will have the opportunity to provide written recommendations to the Governor for or against the commutation or pardon. AB 648 is being co-authored by California Assemblymembers Marty Block and Nathan Fletcher.

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