

2002

## Gray Davis Hangs Tough

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### Recommended Citation

Leonard, Arthur S., "Gray Davis Hangs Tough" (2002). *Other Publications*. 218.  
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Added by **Gay City News** on December 20, 2002.

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*California high court blocks parole for gay man, 35, who killed at 18*

**By ARTHUR S. LEONARD** | In an important ruling in a case that has become a cause célèbre in California's gay community, the state Supreme Court announced December 16 that it was upholding **Governor Gray Davis'** refusal to allow Robert Rosenkrantz out on parole. Rosenkrantz was 18 and just out of high school in June 1985 when he killed 17-year-old Steven Redman, a friend of his younger brother Joey, a crime for which he was convicted of second-degree murder. The court's ruling is significant in setting standards for evaluating the California governor's overturning of a Board of Prison Terms parole recommendation. At the time of the crime, Rosenkrantz was trying to keep the fact that he was gay secret from his family, because he anticipated their disapproval. However, he had managed to make contact with other gay people, and his conduct aroused the suspicions of his 16-year-old younger brother, Joey, and Joey's friend Redman. Joey eavesdropped on Robert's telephone conversations and learned that he planned to meet another man the evening of his high school graduation at a beach house the Rosenkrantz family owned. Joey and Redman went to the beach house to "investigate," and came upon a party scene where Robert and another man were together in a bedroom. Joey and Steven broke into the house and an altercation ensued, during which Robert threatened to kill them if they told his father that he was gay. Robert's father ended up on the scene after a call from Joey, and concluded his older son was gay as the result of comments Redman made. Robert slept in his car for the next week, as he tried to get his brother and Redman to tell his father that they had been mistaken and that he was not gay. He purchased an UZI, practiced at a shooting range, and staked out Redman's home after Steven refused his telephone pleas to recant the story. Finally, Robert confronted Steven personally with the gun, and when Steven again refused to agree to change his story, shot him ten times. Robert fled with the UZI and did not surrender to police for several weeks. A jury convicted him of second-degree murder, evidently concluding that the prosecution had not proved beyond a reasonable doubt that he had planned the confrontation with Steven to be a murder, but that Robert had intentionally killed Redman in the course of their confrontation. He was sentenced to 15 years to life in prison. According to his petition for parole, Robert has been a model prisoner, has reconciled with his family, has accepted responsibility for what he did, and has completed almost all the requirements for a bachelors degree. Rosenkrantz first applied for parole in 1994, setting off a lengthy chain of rulings and appeals. This final appeal to the California Supreme Court came down to the question of whether Governor Davis, by rejecting the most recent decision of the Board of Prison Terms to allow Rosenkrantz out on parole, violated the prisoner's right to due process of law under the Constitution. In 1988, two years after Rosenkrantz's conviction, a California constitutional amendment for the first time gave the governor the right to reject or modify a parole decision made by the Board. Rosenkrantz argued to the Supreme Court that the governor should have no role to play in his case because he was convicted at a time when the Board's discretion was not subject to his review. A majority of the Court quickly rejected this argument, citing widespread precedent that the relevant time for confronting this issue is when a prisoner petitions for parole, not when he was sentenced. The Court also found, however, contrary to the governor's argument, that his decision regarding a Board parole grant is subject to judicial review. Davis had insisted that the 1988 constitutional amendment essentially gave him unreviewable authority over parole, but the court concluded the governor must make an individualized assessment of each case, backed up by at least some evidence in the factual record, rather than adopting a uniform policy. Rosenkrantz argued that Davis has unconstitutionally adopted a policy of blanket refusal to parole anybody convicted of murder. The governor denied adopting such a blanket policy, and in fact he agreed to parole two women convicted of murder for killing their wife-battering husbands. More to the point, Davis issued a twelve-page decision in Rosenkrantz's cases that includes a detailed analysis of the facts, some of them disputed, which the court found provided sufficient evidentiary support to let the parole refusal

stand. The governor concluded that the evidence would have supported a first-degree murder verdict, and that Rosenkrantz was lucky that the jury convicted him only on second-degree murder, resulting in a shorter minimum length to his sentence. Davis emphasized that Rosenkrantz shot Redman ten times, including several shots to the head, and that he went on the lam for several weeks, during which he boasted of his exploit and had himself photographed flaunting the UZI. Rosenkrantz's statements, in Davis' view, showed that he had not fully accepted responsibility for his crime and continued to blame the victim for his own death. The governor specifically found that whatever trauma Rosenkrantz experienced from Redman's actions did not justify the extreme response, and that Robert's behavior suggested he presented a serious risk to society due to his willingness to resort to violence as a solution to a traumatic situation.