

In the Supreme Court of the United States

RAM MEHTA,

Petitioner,

v.

THE PEOPLE OF THE STATE OF CALIFORNIA,

Respondent.

On Petition for Writ of Certiorari to the
Court of Appeal of the State of California,
Second Appellate District, Division Five

PETITION FOR REHEARING

RAM MEHTA
PETITIONER PRO SE
12227 IRON STONE DRIVE
RANCHO CUCAMONGA, CA 91739
(714) 931-4501
RNN_MEHTA@YAHOO.COM

NOVEMBER 23, 2018

TABLE OF CONTENTS

| | Page |
|--|------|
| TABLE OF AUTHORITIES | ii |
| RESTATEMENT OF FACTS AND AUTHORITY | 1 |
| REASON FOR BRINGING PETITION FOR REHEARING..... | 2 |
| I. The Treatment of Petitioner Undermines the Legitimacy of the Constitution of the United States..... | 2 |
| A. Motion to Suppress Evidence Preju- dicially Denied | 2 |
| B. Courts Amended Law on DUI Convic- tion..... | 2 |
| C. No Substantial Evidence Established by Prosecution During the Trial for Charge Count 1 and Count 2 | 3 |
| D. Conspiracy During Trial by Prosecutor and Honorable Commissioner Against Me Regarding Blood Alcohol Contain | 6 |
| E. Jury Instruction Prejudicially Denied by Honorable Commissioner..... | 6 |
| F. About My Damages Due to Unlawful Case Against Me | 7 |
| G. This Court Should Preserve the Dignity of the Court and Judiciary..... | 7 |
| H. About My Declaration..... | 8 |
| ARGUMENT | 8 |
| CONCLUSION..... | 12 |
| RULE 44 CERTIFICATE | 13 |

TABLE OF AUTHORITIES

| | Page |
|--|------|
| CASES | |
| <i>Mercer v. DMV</i> , 53 C.3d 753 (1991) | 4, 9 |
| <i>People v. Mejia</i> , 211 Cal. App. 4th 586 (Cal. Ct. App. 2012) | 11 |
| <i>People v. Williams</i> , 20 Cal.4th 119 (1999) | 9 |
| <i>People v. Wilson</i> , 176 CA3d Supp. 1 (1985)..... | 4, 9 |
| <i>Wilder v. Superior Court</i> , 92 CAL.App.3d 90 (1979) | 9 |
| CONSTITUTIONAL PROVISIONS | |
| Cal. Const. Art. I, § 1 | 9 |
| Cal. Const. Art. I, § 10 | 9 |
| Cal. Const. Art. I, § 13 | 9 |
| U.S. Const. amend. IV | 9 |
| U.S. Const. amend. V..... | 9 |
| U.S. Const. amend. XIV..... | 9 |
| STATUTES | |
| Vehicle Code § 23152(a) | 3 |
| Vehicle Code § 23152(b)..... | 4 |

TABLE OF AUTHORITIES—Continued

Page

OTHER AUTHORITIES

| | |
|--|------|
| Witkin & Epstein, <i>Chapter XIV—“Trial,”</i> <i>California Criminal Law</i> , (2d ed.,) Vol. 5, § 2883 (1989) | 5, 9 |
|--|------|



RESTATEMENT OF FACTS AND AUTHORITY

The complete details of the statement facts is stated in the Petition for Writ of Certiorari. Here are some of the most important facts restated.

The Misfortune incident that occurred on February 20, 2015 was because my vehicle's both the tires (front and rear) of the driver's side got flat. I drove with flat tire on the left lane of the road for about 1/2 of a mile and brought my vehicle safely on the right lane close to the curb. I parked my vehicle by the curb, and turned off my car engine and stayed in my vehicle to take rest. The police arrived, who did not see me driving, arrived about 15 minutes after.

The police then searched my entire vehicle but did not find any arm, weapon or illegal drug from my vehicle. At this time, the police performed some field sobriety test but they did not perform breathalyzer test to check my alcohol contain, nor was it taken in the Sherriff's Station.

The police based their report on my telephonic recorded statement of the incident given by me on about February 25, 2015 to my Insurance Company's claim adjuster Ms. Nicole Callender where I discussed my driving route. Several incidents included in police report were fabricated by the police to frame me under DUI. I also informed Deputy District attorney Ms. Diane Hong about the fabrication of the police report. In addition, in a telephone conversation I also confronted my insurance claim adjuster as to why she gave my recorded statement to police. However, she denied that. Further I requested her to provide me with the copy

of my recorded statement so that I could submit it to the court, at the time she assured me that she will send a copy of my recorded interview. However, on October 28, 2015 she wrote me that unfortunately they are unable to provide me a copy of my recorded interview as there were technical issues with that system the day it was recorded. (See letter dated 10/28/2015 from Mercury Insurance (CT 000174) I did not bring this letter to the Jury trial because Honorable Commissioner warned me that I should not bring the Mercury Insurance letter dated 10/28/2015 (RT 918-922 and RT 1511-1514)),



REASON FOR BRINGING PETITION FOR REHEARING

I. THE TREATMENT OF PETITIONER UNDERMINES THE LEGITIMACY OF THE CONSTITUTION OF THE UNITED STATES

A. Motion to Suppress Evidence Prejudicially Denied

The fact of denying motion to suppress evidence by Honorable Commissioner I have detailed in my Petition for Writ of Certiorari. In The Supreme Court of the United States filed dated Aug 14 2018 under Case No. 18-209.

B. Courts Amended Law on DUI Conviction

As detailed in the Petition for Writ of Certiorari in this case, the Prosecution amended the Law to

convict me under DUI. Appellate Division Honorable Judges failed to address this issue in their opinion or looks like, like trial court Honorable Commissioner and Appellate Division Honorable Judges, Court of Appeal Honorable Judges by not transferring my petition of transfer in the court of appeal again by denying my petition for writ of mandate were pre-determined to convict me.

C. No Substantial Evidence Established by Prosecution During the Trial for Charge Count 1 and Count 2

On both the Counts Prosecution did not have substantial evidence and Honorable Commissioner was biased and prejudice against me (defendant) and to convict me (defendant) under DUI Honorable Commissioner ordered Jury to apply incorrect standard against me. Appellate Division Honorable Judges wrong in their finding Like prosecution appellate division Honorable judges are wrong here or looks like, like trial court Honorable Commissioner and Appellate Division Honorable judges, Court of Appeal Honorable Judges by not transferring my petition of transfer in the court of appeal again by denying my petition for writ of mandate were pre-determined to convict me,

Below are facts regarding Charge Count 1 and Count 2. On 06/17/2015 Plaintiffs, The People of the State of the California, filed unlawful Misdemeanor complaint against Defendant Ram Mehta under Count 1 Driving under influence (DUI) of an alcoholic beverage, in violation of Vehicle Code Section 23152(a). It is unlawful for a person who is under the influence of any alcoholic beverage to drive a vehicle and Count 2 Driving with a .08 Blood Alcohol Content, in violation

of Vehicle Code Section 23152(b). It is unlawful for a person who has 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle With their complaint prosecution did not attach or submitted any substantial evidence as document (CT 000001).

The prosecution could not able to establish with substantial evidence or audio, video recording or Dashboard Camera recording that officer saw me driving (RT 1516-1537 and RT 1801-1829), Officer did not saw me driving I was never stopped or pulled over by the Police during driving (RT 2145-2167) During Jury deliberation, Jury came up with the question that-does police have to prove if the defendant (Ram Mehta) was driving his Vehicle? (RT 2448-2449) Please note, to my surprise, question from jury and my argument and answer of the question of Jury is missing in Reporter Transcript, my answer for above Jury question was I requested argued to Honorable Commissioner to give my jury Instruction 1 and 2 to jury *i.e.* Jury Instruction 1 "Driving" Defined In order to prove that the defendant drove a vehicle, the prosecution must prove beyond a reasonable doubt that (1) the vehicle moved; and (2) that the volitional acts of the defendant directly caused that movement *Mercer v. DMV*, 53 C.3d 753 (1991); *People v. Wilson*, 176 CA3d Supp. 1, fn.5 (1985), and Jury Instruction 2 Acts Constituting Alleged Offense, "You are instructed that the defendant is not accused of any wrongful act occurring before the approximate time that he was seen driving by the arresting officer in this case. A finding of guilt cannot be based upon evidence that the defendant drove his vehicle while under the influence at some time other than that approximate time." Witkin & Epstein, Chapter XIV—"Trial," California Criminal

Law, (2d ed.) Vol. 5, § 2883 (1989). But Honorable Commissioner prejudicially denied my request; after some time, Jury came on decision on Count 1 as guilty verdict against me.

On the charge Count 2 against me Jury came as Hung decision, 11 to 1 in favor of me (RT 2705-2708). Hearing Jury's hung decision on Count 2 Honorable Commissioner and Deputy District attorney became frustrated and Honorable Commissioner ordered the Jury that she will provide the testimony of expert regarding Count 2. Further she ordered Jury to go through the testimony of expert and come with their verdict. On this I reminded Honorable Commissioner that the testimony of expert should not be considered because all the evidence supposed to be suppressed, also reminded Honorable Commissioner about my all the motion to suppress evidence, motion in limine to suppress evidence, in addition, prosecution did not submit any substantial evidence as document for Blood Alcohol Content (RT 2704). In addition, whenever the prosecution verbally brought evidence regarding BAC in the Court, I respectfully objected to Court to suppress the BAC evidence (RT 2402). However, she prejudicially denied all my requests and ordered Jury to come with their verdict. After sometime on Count 2 on the basis of expert's testimony the Jury gave their guilty verdict. In addition, I mentioned to the Court that under the retest my BAC level was far less than what prosecution claimed. The Court must have received one copy of my blood retest report for BAC from retesting forensic lab.

On both the Counts Prosecution did not have substantial evidence and Jury found me guilty because

Honorable Commissioner was biased and prejudice against me and ordered Jury to apply incorrect standard against me.

Please note, Superior Court Appellate Division Honorable Judges (Alex Ricciardulli Acting P. J., Barbara R. Johnson Judge & Charles Lee, Judge) didn't address above mention facts about No Substantial Evidence Established by Prosecution during the Trial for Charge Count 1 and Count 2 in their opinion.

D. Conspiracy During Trial by Prosecutor and Honorable Commissioner Against Me Regarding Blood Alcohol Contain

To convict me (defendant) under DUI during trial as stated in my Reply Brief Honorable Commissioner and prosecutor conspire against me (defendant) regarding Blood Alcohol Contain Ordered Jury to apply incorrect standard against me. Appellate Division Judges fail to address this issue in their opinion or looks like, like trial court Honorable Commissioner and Appellate Division Honorable Judges, Court of Appeal Honorable Judges by not transferring my petition of transfer in the court of appeal again by denying my petition for writ of mandate were pre-determined to convict me based on the fact of Honorable Commissioner and prosecutor conspiring against me (defendant) regarding Blood Alcohol Contain.

E. Jury Instruction Prejudicially Denied by Honorable Commissioner

The Prejudicial Jury Instructions It Undermines Legitimacy of Entire judiciary process of our State of California and undermines legitimacy of constitution

of the United States of America, as detailed in the Petition of Writ of Certiorari to this Court.

F. About My Damages Due to Unlawful Case Against Me

Prosecution in their responded brief foot note 1 denied my damages stating that this is not civil matter, Like prosecution Appellate Division Honorable Judges also stated in their opinion that I (the defendant) also asks for "damages" there is no basis for this request, and it is denied (page 12 foot note 3 appellate division Honorable Judges opinion), Like prosecution appellate division Honorable judges did not consider my reason of asking the damages or looks like, like trial court Honorable Commissioner and Appellate Division Honorable Judges, Court of Appeal Honorable Judges by not admitting my petition of transfer in the court of appeal again by denying my petition for writ of mandate were pre-determined not to give my damages and It undermines legitimacy of the constitution of the United States of America. the reason and facts about my damages I have detailed in my Petition for Writ of Certiorari In The Supreme Court of the United States filed dated Aug 14 2018 under Case No. 18-209.

G. This Court Should Preserve the Dignity of the Court and Judiciary

The prosecution making mockery of the Court and Judiciary by manipulating conspiring against me government agencies, DMV, and Insurance Co. created situation like banana republic for me and It undermines legitimacy of entire judiciary process of our State of California and undermines legitimacy of constitution of State of California and undermines the constitution

our Country United State of America. The facts I have detailed in my Petition for Writ of Certiorari.

H. About My Declaration

Honorable Commissioner warned me that I should not bring the fact of my fear reason during hearings and the trial (RT 909-913). Not admitting fact of my declaration in the trial Court, undermines legitimacy of entire judiciary process of our State of California and undermines the constitution the United States of America.

ARGUMENT

As per "Declaration of Rights"

All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy.

Witnesses may not be unreasonably detained. A person may not be imprisoned in a civil action for debt or tort, or in peacetime for a militia fine. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable seizures and searches may not be violated; and a warrant may not issue except on probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized.

The Petitioner rests this rehearing on these authorities:

- (a) Fourth, Fifth, and Fourteenth amendments of the United States Constitution. And Article I §§ 1, 10, and 13, of the California Constitution.
- (b) *People v. Williams* (1999) 20 Cal.4th 119, 125; *Wilder v. Superior Court* (1979) 92 CAL. App.3d 90.).

Firstly, our law makers clearly have well-defined DUI with authority and DUI law are crystal clear as "Driving" Defined In order to prove that the defendant drove a vehicle, the prosecution must prove beyond a reasonable doubt that (1) the vehicle moved; and (2) that the volitional acts of the defendant directly caused that movement *Mercer v. DMV*, 53 C.3d 753 (1991); *People v. Wilson*, 176 CA3d Supp. 1, fn5 (1985), and Acts Constituting Alleged Offense, "You are instructed that the defendant is not accused of any wrongful act occurring before the approximate time that he was seen driving by the arresting officer in this case. A find of guilt cannot be based upon evidence that the defendant drove his vehicle while under the influence at some time other than that approximate time." Watkin & Epstein, "Trial".

To convict of drunk driving, the prosecution must establish with substantial evidence three things: first, that the officer who arrested me he had a probable cause to stop me; second, that the defendant violated the State's DUI laws by driving with an illegal blood alcohol content (BAC) or refused to perform a chemical test; and lastly, that my arrest was lawful. If all three of these requirements are not met case should be dismissed. The First Matter of fact is during hearing of motion to suppress evidence or during trial the prose-

cution was not able to establish with substantial evidence or the audio video reorder or Dashboard Camera recording that the officer stopped or pullover me because the Officer did not see me driving. Furthermore, on the day my vehicle's both the tires (front and rear) of the driver's side got flat, therefore I parked my vehicle safely to the curb. Second matter of fact is that the prosecution was not able to establish with substantial evidence that I was driving under the State's DUI laws by driving with illegal blood alcohol content (BAC) because the Officer did not see me driving or I refused to perform a chemical test. Also my arrest was unlawful, and during the entire hearing of motion to suppress evidence and during trial the Officer or the Prosecution did not provide any substantial evidence or physical evidence or tangible evidence or the audio video reorder or Dashboard Camera recording regarding advising me that as a citizen I have statutory right to a choice of tests; evidence showing I failed Field Sobriety test; evidence that the officer saw me driving or the officer stopped or pulled me over during driving. Lastly, the officer neither stopped nor pulled me over nor he saw me during driving nor he gave me my statutory right to a choice of tests. As the Prosecution was not able to establish even one of all three above mentioned requirements against me, the case against me must be dismissed.

Second, the Honorable Commissioner was prejudicial against me, applying an incorrect standard for denying my motion to suppress evidence and for denying my Jury Instruction. Moreover, I was not allowed my trial brief and was warned not to show or give testimony about my evidence which I included in my

Trial Brief to the Jury. I was warned I should not mention my becoming an Uber taxi driver and warned me again and again to not say reason of fear, beside her being biased and prejudicial against.

Finally, I request and urge to Supreme Court to go through all the facts of this case, my pleadings, Constitutional provisions, Statutory laws, and case laws which I included in my pleadings and also in this Brief and most importantly in my Declaration. All the aforementioned facts mentioned proves that Superior court and prosecution made mockery of the Court by manipulating and conspiring against me all government agencies and institution, DMV, Insurance Co. even federal institution like USPS etc. This act of Superior court and prosecution perfect example of banana republic. Also all the facts prove that I (defendant, appellant) am not guilty. The Superior Court Appellate Division, in their opinion, page 2 to page 5 under prosecution case did not indicated that prosecution provided any substantial evidence in regards to DUI except the testimony of Officer Boskovich. DUI laws are crystal clear. By ignoring DUI laws prosecution, Honorable Commissioner and Superior Court Appellate Division Honorable Judges are admitting that testimony of a single police officer is more than enough for conviction for any crime.

The Superior Court Appellate Division Opinion page 9 line 22 to 25 states, "Where circumstances reasonably justify a jury's findings of fact, a reviewing court's conclusion that such circumstances might also reasonably be reconciled with contrary findings does not justify reversal." *People v. Mejia*, 211 Cal. App. 4th 586 (Cal. Ct. App. 2012). To the contrary, I proved

with the fact that Jury did not convict me to convict me Prosecution and honorable Commissioner made amendment in the law and conspired to convict me.



CONCLUSION

Foregoing reason to serve the justice and preserve the dignity and legitimacy of court of law and Judiciary, I request Supreme Court to Rehear this petition and Order Court of Appeal, Appellate Division of superior Court of Los Angeles Withdraw remitter and Order Trial Court of Superior Court of Los Angeles vacate the jury verdict and vacate my conviction, vacate the Probation/sentencing, dismiss the case against me, expunge my DUI record from DMV and order plaintiff to pay my damages.

Respectfully submitted,

RAM MEHTA

PETITIONER PRO SE

12227 IRON STONE DRIVE

RANCHO CUCAMONGA, CA 91739

(714) 931-4501

RNN_MEHTA@YAHOO.COM

NOVEMBER 23, 2018

RULE 44 CERTIFICATE

I, Ram Mehta, petitioner pro se, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury that the following is true and correct:

1. This petition for rehearing is presented in good faith and not for delay.

2. The grounds of this petition are limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented.

Ram H. Mehta

Signature

Executed on November 23, 2018