

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

EDWARD VINCENT RAY, JR.
(Your Name)

ORIGINAL

— PETITIONER

vs.

STATE OF CALIFORNIA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

FILED

JUN 26 2018

OFFICE OF THE CLERK
SUPREME COURT, U.S.

California Supreme Court
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

EDWARD VINCENT RAY, JR. - F73521
(Your Name)

P.O. Box 705
(Address)

Soledad, CA. 93960
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1. Whether Petitioner's sentence of 38 yrs 4mos., violates equal protection under the law because of the disparities in California sentences for female and male offenders for the same class of crimes?
2. Whether Petitioner's sentence totaling 38 yrs. 4mos, as a first time offender at the age of 38, for Non-homicide crimes, in fact constitutes cruel and unusual punishment under the State and/or federal constitutions, and is the equivalent of life without the possibility of parole (LWOP)?
3. Whether appointed appellant counsel violated Petitioner's Sixth Amendment Right to Effective Counsel on Appeal, and was ineffective resulting in prejudice to Petitioner, (lost claim), by failing to raise in briefing that Petitioner's sentence constitutes cruel and unusual punishment?
4. Whether the State of California punishes male offenders more harshly, for the same class of crimes than it does female offenders, is the state demonstrating gender bias?

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Furman v. Georgia, 408 U.S. 238 (1972) - - - - -	6
Glover v. United States, 531 U.S. 198 (2001) - - - - -	6
Graham v. Florida, 130 S.Ct. 2011 (2010) - - - - -	6
Harmelin v. Michigan, 501 U.S. 957 (1991) - - - - -	6
In re Dannenburg (2005) 34 Cal. 4th 1061 - - - - -	6
In re Lynch (1972) 8 Cal. 3d 410 - - - - -	6
Lafley v. Cooper, 132 S.Ct. 1376 (2012) - - - - -	6
Rummel v. Estelle, 445 U.S. 263 (1980) - - - - -	6
Smith v. Robbins, 528 U.S. 259 (2000) - - - - -	6
Strickland v. Washington, 466 U.S. 668 (1984) - - - - -	6

STATUTES AND RULES

28 U.S.C. § 1257 (a) - - - - -	2, 5
United States Supreme Court Rules, Rule 13 (3) - - - - -	5
Eighth Amendment - - - - -	5, 6
Sixth Amendment - - - - -	5, 6
Fifth Amendment - - - - -	5
Fourteenth Amendment - - - - -	5

OTHER

California Constitution Article I, § 17 - - - - -	5, 6
---	------

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4-5
REASONS FOR GRANTING THE WRIT	6
CONCLUSION.....	7

INDEX TO APPENDICES

APPENDIX A - *California Supreme Court opinion ;*

APPENDIX B - *Alameda County California Superior Court opinion;*

APPENDIX C - *State of California, State Habeas Petitions, and, Points and Authorities;*

APPENDIX D - *Statistics in San Quentin Newspapers, showing life expectancy inmates.*

APPENDIX E

APPENDIX F

LIST OF PARTIES

- [☒] All parties appear in the caption of the case on the cover page.
- [☐] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the Alameda County California Superior court appears at Appendix B to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☒ For cases from **state courts**:

The date on which the highest state court decided my case was 5/23/18.
A copy of that decision appears at Appendix A.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Eighth Amendment states in pertinent part: "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments be inflicted." U.S. Const. Amend. VIII

The Fifth and Fourteenth Amendments state in pertinent Part: "Nor shall any state deprive any person of life, liberty, or property, without due process of law." U.S. Const. Amend. V, XIV.

The Sixth Amendment states in pertinent part: "to have effective assistance of counsel for his defence." U.S. Const. Amend. VI.

United States Constitution:

Amend VIII, V, XIV, VI;

California Constitution:

Art I § 17

28 U.S.C.

§ 1257

United States Supreme Court Rules

Rule 13 (3)

STATEMENT OF THE CASE

Petitioner and three (3) others were alleged to have committed a so called "robbery spree" in Oakland, Alameda, and Hayward, CA., from July 12, 2005, thru August 27, 2006, an area of the country known for violent gang robberies, and other crimes, involving gangs.

Petitioner is a white male, ALL of the "victims", with the exception of two robberies, identified the suspects as "black and/or hispanic", who wore "black hooded sweatshirts", and various colors of "bandanas" across their faces to conceal their identities, the robbers took money, beer, cigarettes, and lottery tickets in some of the crimes, but not all of the robberies were committed in the same manner, place, or times.

There was NO physical evidence found at any of the crime scenes connecting Petitioner to any of the robberies.

Because Petitioner was factually innocent, and was only implicated in these alleged crimes by out-of-court "statements" of two, of the other three people arrested by the Police, Petitioner and one other codefendant proceeded to go to a jury trial pursuant to the Sixth Amendment.

After three full court days of jury deliberations, Petitioner, and his one codefendant were found guilty, of "multiple counts of robbery w/ firearm use".

One codefendant received 5 yrs felony probation, another received 14 mos in County jail, the codefendant who went to trial received 8 yrs prison while petitioner who had no evidence of his involvement received a 38 yrs. 4 mos., sentence, equating to LWOP as a first time "offender".

STATEMENT OF THE CASE

These "crimes", involved only the loss of property, two victims suffered Non life threatening injuries, there was NO LOSS OF LIFE, NO SHOTS FIRED, there isn't even a firearm in evidence, or any evidence corroborating a firearm.

Petitioner has NO chance at parole until he serves 32 yrs., 4 mos, of the 38 yr. sentence, this is the equivalent of a death sentence as studies show inmates in CDCR custody only have a life expectancy of 58 years, compared to mates in the free world, who live to approximately 77 yrs of age. (See, Appendix D, included herein)

Petitioner even presented, to the California State Courts solid evidence that his sentence is disproportionate, when compared to inter, and infrastate like crimes; also, compared to those sentences, and crimes committed by male, and female offenders, whose crimes were far more serious than the alleged crimes committed by petitioner, yet those suspects received far less sentences.

Petitioner's prior corpus history is miniscule, consisting only of two misdemeanors, one in Pennsylvania in 1995, (simple assault) and the second in California in 2001, (corporal punishment of child), both were family disputes, petitioner has NO moral turpitude on his record.

Petitioner has been in Custody 12 yrs., now, when does the punishment end, and rehabilitation begin? Over property.

REASONS FOR GRANTING THE PETITION

1. Petitioner will die in prison without relief;
2. Petitioner's sentence violates the 8th Amendment pursuant to Furman v. Georgia, 408 U.S. 238, 280 (1972); Graham v. Florida, 130 S. Ct. 2011, 2027; Solem v. Helm, 463 U.S. 277, 289-90 (1983); Rummel v. Estelle, 445 U.S. 263, 293 (1980); Harmelin v. Michigan, 501 U.S. 957 (1991); People v. Dillon (1983) 34 Cal. 3d 441; In re Lynch (1972) 8 Cal. 3d 410; In re Dannenburg (2005) 34 Cal. 4th 1061; Cal. Const Art I. § 17; compared to his codefendants, and/or other offenders;
3. Petitioner's sentence is 13 yrs., longer than a 1st Degree Murder case;
4. 38 yrs., 4 mos., (Petitioner's sentence), equates to a death sentence to a 38 yr., old person, or at the very least a LWOP term;
5. The State of California treats male, and female offenders unequally;
6. Petitioner's counsel on Appeal was ineffective because he failed to raise the Cruel and Unusual Punishment claim in the briefs and now the Courts procedurally barred that claim this demonstrates ineffective assistance in violation of the Sixth Amendment; Smith v. Robbins, 528 U.S. 259 (2000); Laffer v. Cooper, 132 S. Ct. 1376, 1385-86 (2012) 6th Amendment; Glover v. United States, 531 U.S. 198, 203-04 (2001); Strickland v. Washington, 466 U.S. 668 (1984);
7. Petitioner is suffering from a fundamental miscarriage of justice, violations of equal protection of the law, due process of the 14th Amendment and 5th Amendments.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Edward Vincent Ray Jr.

Date: 6 / 25 / 2018