

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

VESTER L. PATTERSON, — PETITIONER
(Your Name)

vs.

WILLIAM J. SULLIVAN. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

SUPREME COURT OF CALIFORNIA

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

PETITION FOR WRIT OF CERTIORARI

VESTER L. PATTERSON #K58564

(Your Name)

CA.CORRECTIONAL INST. P.O. BOX 608

(Address)

TEHACHAPI, CA 93581

(City, State, Zip Code)

N/A

(Phone Number)

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	6
STATEMENT OF THE CASE.....	7
REASONS FOR GRANTING THE WRIT	9
CONCLUSION.....	12

INDEX TO APPENDICES

APPENDIX A - Decision of Ca. Supreme Court and both petitions.

APPENDIX B - Writ of Prohibition.

APPENDIX C - Superior Court Order and D.A. Response.

APPENDIX D - Superior Court's Decision.

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☐ is unpublished.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☐ is unpublished.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☒ is unpublished.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 _____ 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☐ is unpublished.

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. ____ A ____.

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 April 11, 2018.
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. ____ A ____.

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

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Pendergast v. United States, 397 U.S. 412, 25 L.Ed.2d 156 (1943).....	9
People v. Angel (1999) 70 Cal.App.4th 1141, 83 Cal.Rptr.2d 222.....	10
Stogner v. California, 539 U.S. 607, 156 L.Ed.2d 544 (2003).....	11
Toussie v. United States, 397 U.S. 112, 25 L.Ed.2d 156 (1970).....	9

STATUTES AND RULES

Ca. Penal Code sections; 801.1.....	9, 11
" " " " 803(g)(1)(A)(B).....	7, 8, 11
" " " " 804.....	10

OTHER

14th Amendment U.S. Const.....	11
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QUESTION(S) PRESENTED

1. May a defendant be tried and punished for offenses that were statutorily barred by the statute of limitation's?
2. May a statutorily time barred offense be revived?

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

14th Amendment of the U.S. Constitution.

28 U.S.C. sec.1257(a).

28 U.S.C. sec.2102.

28 U.S.C. sec.2104.

STATEMENT OF THE CASE

On November 28, 2007, the People of the state of California filed a four count felony complaint for arrest warrant that alleged: Count 1, a violation of Penal Code Section (Sec.) 209.5, Subdivision (Sub)(a) [Kidnap for Carjacking]; Count 2, a violation of Sec. 209.5, Sub.(a) [Kidnap for Carjacking]; Count 3, a violation of Sec. 288a, Sub.(c)(2) [Oral Copulation] by force or fear; Count 4, a violation of Sec. (a)(2) [Rape by force and fear]. The offense date for all four counts was January 20, 1997. The arrest warrant was issued on the same date November 28, 2007.

On January 11, 2008, a removal of prisoner order was filed to secure petitioner's presence in court.

On February 5, 2008, petitioner appeared in propria persona, was arraigned and entered a plea of not guilty to all counts. At that time, petitioner made an objection based on statute of limitation grounds, to counts 3 and 4.

On December 30, 2008, petitioner filed a "Writ of Prohibition". See "B" In the writ petitioner contended that the prosecution of counts 3 and 4 were statutorily barred because the ten year statute of limitation had expired. See Appendix "B"

The Los Angeles County Superior Court issued an order to the L.A. County DISTRICT Attorney Office to issue a informal response to the petition for writ of prohibition. See Appendix "C"

On January 25, 2009, the district attorney office responded informally arguing that pursuant to penal code section 803(g)(1), counts 3 and 4 were timely filed within one year of the date upon which defendant's identity was conclusively established by DNA testing which

was October 31, 2007. The offenses were committed on January 20, 1997, and DNA was analyzed for type on June 16, 1998, as required by section 803(g)(1). The crime described in counts 3 and 4 are described in section 290.

On February 29, 2009, The L.A. County Superior Court issued a opinion denying the writ on the basis of the D.A.'s Office response. See Appendix "D"

On April 27, 2011, petitioner pled nolo contendere to counts 3 and 4.

On May 9, 2011, petitioner was sentence was sentence to thirty (32) years.

Petitioner appeared in propria persona throughout this case.

REASONS FOR GRANTING THE PETITION

The following factors were all present in this case :

1. On January 20,1997, the offenses were committed.
2. On November 28,2007, the L.A.County District Attorney Office filed a felony Complaint in support of an arrest warrant and the warrant was issued.See Appendix "C"
3. On December 30,2008, Petitioner filed a Writ of Prohibition in the L.A.County Superior Court.See Appendix "B"
4. On January 25,2009, the L.A.County District Attorney Office filed a response,after the superior court ordered it to.See Appendix "C"
5. On February 23,2009, the L.A.County Superior Court denied the writ of prohibition, agreeing with the district attorney.See Appendix "D"

Notwithstanding all of the above factors,based on this court's decision in "Toussie v. United States" Petitioner's statute of limitation claim,arising from the commencement of prosecution of the case in question,was denied.

In Toussie v. United States,397 U.S. 112, at p.123,"Every statute of limitation, of course, may permit a rogue to escape"; Pendergast v. United States,317 U.S. 412, 418, 87 L.Ed. 368, 373, 63 S.Ct. 268(1943), but when a court concludes that the statute does bar a given prosecution, it must give effect to the clear expression of congressional will that in such a case "No person shall be prosecuted, tried or punished"

Ca.Penal Code section 801.1, states in relevant part, (b) Notwithstanding any other limitation of time described in this chapter if subdivision (a) does not apply, prosecution for a felony offense described in subparagraph (c) of section 290 shall be commenced within 10 years after commission of the offense.

Former Ca.Penal Code section 804, states, except as provided in this chapter "for an offense is commenced when any of the following occurs:

(a) An indictment is filed.

(b) A Complaint is filed with an inferior court charging a public offense of which the inferior court has original trial jurisdiction.

(c) A case is certified to the Superior Court.

(d) An arrest warrant or bench warrant is issued, provided the warrant names or describes the defendant with the same degree of particularity required for an indictment, information, or Complaint. See People v. Angel(1999)70 Cal.App.4th 1141.

The offenses were committed on January 20,1997, and the district attorney office had to January 20,2007, to commence prosecution.

On November 28,2007, the district attorney office filed a felony Complaint in support of an arrest warrant, without any affidavit, and the warrant was issued on the date of filing.See Appendix "C"

The warrant was issued Ten(10), years, Eleven(11), months and Nine(9), days after January 20,1997.

The district attorney office filed the felony warrant to ~~commence~~ prosecution on November 28,2007, well over the ten year statute of limitation period.

On December 30,2008, Petitioner filed a petition for writ of prohibition in the L.A.County Superior Court contesting the filing of the felony complaint in support of an arrest warrant on the grounds that counts 3 and 4, were statutorily barred because the ten year statute of limitation had expired.See Appendix "B"

The L.A.County SuperioraCourt issued an order to the L.A.County District Attorney Office to issue an informal response to the petition for writ of prohibition.See Appendix "C"

On January 25,2009, the L.A.County District Attorney Office re-

sponded informally arguing that pursuant to penal code section 803 (g)(1), counts 3 and 4 were timely filed within one year of the date upon which defendant's identity was conclusively established by DNA testing which was October 31,2007. The offenses were committed on January 20,1997 and the DNA was analyzed for DNA type on June 16,1998, as required by section 803(g)(1). The crimes described in counts 3 and 4 are described in section 290(c).See Appendix "C"

The L.A.County Superior Court agreed with the district attorney office response and denied petitioner's writ of prohibition.See Appendix "D"

The L.A.County District Attorney Office violated both statutes that bars commencement of prosecution, and they are as follows:

1. Penal Code section 801.1(b);
2. Penal Code section 803(g)(1)(A)(B) states in relevant part, The offense was committed prior to January 1,2001, and biological evidence collected in connection with the offense is analyzed for DNA type no later than January 1,2004.Here it was October 31,2007.

I. STATUTE OF LIMITATION CANNOT BE REVIVED

In "Stogner" this court held the statute of limitation's was violated and could not be revived.Stogner v. California,539 U.S. 607, 612, 156 L.Ed.2d 544, 123 S.Ct. 2446.

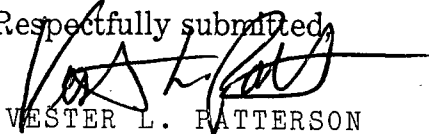
The 14th Amendment of the United States Constitution guarantees due process and equal protections of the law.

CONCLUSION

Based on the foregoing, Petitioner should be granted an evidentiary hearing on his claims and;

The petition for a writ of certiorari should be granted.

Respectfully submitted,


VESTER L. PATTERSON

Date: MAY 15, 2018