

CASE NO: \_\_\_\_\_

IN THE SUPREME COURT OF THE  
UNITED STATES

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ILICH VARGAS  
PETITIONER

V.

SUPERIOR COURT OF CALIFORNIA  
RESPONDENT

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ON PETITION FOR CERTIORARY TO THE STATE OF  
CALIFORNIA SUPREME COURT FOR THE SUMMARY DENIAL  
OF CASE S246153 PETITION FOR REVIEW OF SEPTEMBER,  
22, 2017 DENIAL OF DISCOVERY REQUEST AND MOTION TO  
DISQUALIFY PROSECUTING ATTORNEY ENTERED BY HONORABLE  
JUDGE COREY LEE SUPERIOR COURT OF CALIFORNIA  
SAN BERNARDINO COUNTY CASE FVI 1203282.

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PETITION FOR WRIT OF CERTIORARY

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IN PRO-PER / PRO-SE

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60 DAY EXTENSION TO CORRECT THE PLEADING  
AND APRIL 22, 2018 PROOF OF SERVICE

## I. PETITION FOR WRIT OF CERTIORARI

PETITIONER ILICH VARGAS RESPECTFULLY PETITIONS TO THE COURT TO ISSUE A WRIT OF CERTIORARI IN ORDER TO REVIEW THE CALIFORNIA SUPREME COURT, JANUARY 31, 2018 SUMMARY DENIAL CASE NO. 5246153 OF PETITION FOR REVIEW OF THE SEPTEMBER 22, 2017 DECISION TO DENY MOTION FOR PRE-TRIAL DISCOVERIES AND MOTION TO DISQUALIFY THE DISTRICT ATTORNEY IN CASE FVE 1203282 SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN BERNARDINO AND ON BEHALF OF HONORABLE JUDGE COREY LEE DEPARTMENT 8 OF VICTORVILLE DIVISION.

## II. QUESTIONS PRESENTED

1. WHETHER A STATE'S DISTRICT ATTORNEY / PROSECUTOR IN A CRIMINAL PROSECUTION HAS A FREESTANDING DUTY AND OBLIGATION TO INVESTIGATE, DILIGENTLY INQUIRE, AND TO BECOME INFORMED OF ANY EVIDENCE AND INFORMATION CONTAINED WITHIN DISTRICT ATTORNEY'S OFFICE CASE FILES AND OTHER LAW ENFORCEMENT RECORDS OF CRIMINAL JAILHOUSE INFORMANTS THAT THE PROSECUTOR INTENDS TO USE AS STATE WITNESSES IN A PENDING CRIMINAL PROSECUTION AGAINST THE DEFENDANT, AND IN ORDER TO ASCERTAIN WHETHER THE CRIMINAL JAILHOUSE INFORMANTS HAVE EVER ASSISTED LAW ENFORCEMENT AGENTS FOR THE PROSECUTION IN ANY PRIOR CASES AS INFORMANTS OR WITNESSES FOR THE STATE IN EXCHANGE FOR ANY SPECIAL CONSIDERATIONS, BENEFITS, DEALS, LENIENCY, PROMISES AND/OR ANY ASSISTANCE FROM LAW ENFORCEMENT OFFICIALS.?

IF THE ANSWER TO THE ABOVE QUESTION IS YES THEN,



2. WHETHER THE TRIAL COURT JUDGE HAS THE AUTHORITY AND A DUTY TO ISSUE A COURT ORDER TO COMPEL THE DISTRICT ATTORNEY'S OFFICE AND/OR THE PROSECUTOR TO PERFORM THE INVESTIGATIVE DUTIES AND OBLIGATIONS INTO CRIMINAL JAIL HOUSE INFORMANTS' RECORDS AS SET FORTH ABOVE IN (QUESTION 1), WHEN IT APPEARS THAT THE PROSECUTOR HAS NOT MADE ANY EFFORT TO CONDUCT SUCH INVESTIGATIONS AND/OR APPEARS TO ACT WILLFULLY IGNORANT OF HER DUTY AND OBLIGATION TO CONDUCT THOSE INVESTIGATIONS, SPECIALLY, WHEN DEALING WITH CRIMINAL JAILHOUSE INFORMANTS AS STATE WITNESSES; AND IN ORDER TO ASURE THAT THE PROSECUTOR'S RESPONSE AND/OR COMPLIANCE TO A PRETRIAL MOTION FOR DISCOVERY OF THAT INFORMATION, IS MADE COMPETENTLY, ACCURATELY AND WELL INFORMED?

3. WHETHER A CRIMINAL DEFENDANT IN CUSTODY AND ACTING AS PRO-PER/SELF-REPRESENTED HAS A PROTECTED CONSTITUTIONAL RIGHT TO RECEIVE A FAIR AND MEANINGFUL OPPORTUNITY TO CONDUCT AN EVIDENTIARY HEARING IN FRONT OF A FAIR AND IMPARTIAL JUDGE; TO PRESENT EVIDENCE, AND TO COMPEL ATTENDANCE OF WITNESSES ON HIS BEHALF DURING A HEARING TO A MOTION TO DISQUALIFY THE DISTRICT ATTORNEY (PC § 1424) AND IN ORDER TO SUPPORT THE FACTUAL BASIS AND TO MEET THE BURDEN OF PROOF IN ACCORDANCE TO THE RULES OF EVIDENCE AND DUE PROCESS OF LAW IN ORDER TO CREATE AND ESTABLISH AN ACCURATE AND COMPLETE RECORD SO THAT MEANINGFUL AND EFFECTIVE APPEAL AND/OR REVIEW OVER THE TRIAL COURT'S DETERMINATIONS CAN BE SUFFICIENTLY TAKEN OVER SUCH CLAIMS THAT AFFECTS FEDERAL AND STATE CONSTITUTIONAL CIVIL RIGHTS?

4. WHETHER, DIFFERENT FORMS OF BAD FAITH METHODS, TACTICS OR ACTIONS ON BEHALF OF THE PROSECUTING ATTORNEY THAT OFFEND AND SUBVERT INTO A CRIMINAL DEFENDANT'S CIVIL RIGHTS TO PREPARE AN EFFECTIVE DEFENSE CONSTITUTE EVIDENCE OF A CONFLICT OF INTEREST, ANIMUS, BIAS AND/OR PREJUDICE AGAINST THE DEFENDANT THAT HAS BECOME EXTRANEOUS TO A FAIR AND EVENHANDED EXERCISE OF DISCRETIONARY FUNCTIONS TO MERIT RECUSAL ORDERS?

5. WHETHER PROSECUTING AGENTS, POLICE AND PROSECUTERS HAVE A CONSTITUTIONAL OBLIGATION TO COLLECT AND PRESERVE CRITICAL EXCULPATORY AND/OR POTENTIALLY EXCULPATORY EVIDENCE THAT IS INFORMED TO THEM, IDENTIFIED BY THEM AND IT IS CLEAR THAT SUCH EVIDENCE WOULD PLAY AN IMPORTANT PART AT TRIAL AND COULD FORM THE BASIS FOR EXCULPATING OR EXONERATING A CRIMINAL DEFENDANT?

### III. PARTIES

1. ILICH VARGAS, PETITIONER, IS A PRO-PER CRIMINAL DEFENDANT IN CUSTODY OF THE SAN BERNARDINO COUNTY SHERIFF AND WAITING FOR TRIAL IN CASE FVI 1203282 IN THE RESPONDENT COURT

2. SUPERIOR COURT RESPONDENT IS THE SUPERIOR COURT OF CALIFORNIA SAN BERNARDINO COUNTY VICTORVILLE DISTRICT WHERE CASE FVI 1203282 IS PENDING IN DEPT. VB HONORABLE JUDGE LEE'S COURTROOM.

3. THE PEOPLE, IS THE REAL PARTY IN INTEREST AND THESE

PROCEEDINGS DIRECTLY AFFECT "THE PEOPLE" BECAUSE THEY ARE THE PLAINTIFF IN CASE# FVI 1203282 PEOPLE V. VARGAS SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN BERNARDINO.

#### IV. OPINION BELLOW.

ON JANUARY 31 2018 THE SUPREME COURT OF CALIFORNIA IN CASE S246153 SUMMARILY DENIED PETITION FOR REVIEW WITHOUT AN OPINION NOR HEARING, SEE (APPENDIX -A), OVER THE CALIFORNIA COURT OF APPEAL FOR THE FOURTH DISTRICT DIVISION TWO SUMMARY DENIAL OF PETITION FOR WRIT OF MANDATE CASE NO. E069306 THAT WAS DENIED ON NOVEMBER 28, 2017 SEE (APPENDIX -B). THE UNDERLYING DECISION PETITIONER SEEKS REVIEW OF IS THE SEPTEMBER 22, 2017 SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN BERNARDINO DISTRICT OF VICTORVILLE DENIAL OF MOTION FOR PRE-TRIAL DISCOVERIES AND MOTION TO DISQUALIFY THE DISTRICT ATTORNEY ENTERED BY HONORABLE COREY LEE IN CASE FVI 1203282. THE UNITED STATES SUPREME COURT HAS JURISDICTION TO REVIEW THIS CASE UNDER 28 U.S.C.A. § 1257

PETITIONER IS UNABLE TO PROVIDE A COPY OF THE SEPTEMBER 22, 2017 PROCEEDING IN THE STATE SUPERIOR COURT BUT HE IS IN THE PROCESS OF REQUESTING THE TRIAL COURT FOR A COPY. THE PETITIONER IS PRO-PER AND INDIGENT CRIMINAL DEFENDANT IN CUSTODY AND IS SUBJECT TO EXTREMELY RESTRAICTIVE CONDITIONS OF CONFINEMENT AND THAT DIRECTLY CHILL AND PREVENT HIM FROM MAKING COPIES OF THE DOCUMENTS FROM THE ORIGINAL PETITION FOR WRIT OF MANDAMUS AND

THAT WERE FILED IN THE FOURTH DISTRICT DIVISION TWO OF THE CALIFORNIA COURT OF APPEALS IN CASE NO: E06306. HE HAS APPLIED TO THE SUPERIOR COURT OF CALIFORNIA FOR TRANSCRIPTS OF THE SEPTEMBER 22, 2017 HEARING IN QUESTION AND AT THE PRESENT MOMENT HE AWAITS FOR PRODUCTION OF SAID TRANSCRIPTS AND CANNOT INCLUDE THEM WITH THIS PETITION DUE TO THE EXIGENT CONDITIONS OF CONFINEMENT. THEREFORE PETITIONER RELIEF FROM RULE 14.1 AND FOR THIS COURT TO PLEASE ISSUE AN ORDER TO THE COURTS BELOW TO CERTIFY AND TRANSMIT THE RECORD OR AS THE COURT MAY DEEM NECESSARY TO CONDUCT AN APPROPRIATE REVIEW.

#### V JURISDICTION

THE JANUARY 31 2018 JUDGMENT ENTERED BY THE CALIFORNIA SUPREME COURT SOUGHT TO BE RENEWED IS HEREBY INCORPORATED INTO THIS PETITION AS (APPENDIX-A-) THE CALIFORNIA COURT OF APPEALS DECISION ENTERED ON NOVEMBER 28, 2017 IS INCORPORATED INTO THIS PETITION AS (APPENDIX-B-)

ON JUNE 5, 2018 THE UNITED STATES SUPREME COURT RETURNED PETITIONER'S PETITION WITH AN EXTENTION TO CORRECT THE PLEADING DUE TO EXCESS OF PAGINATION. THE CLERK'S LETTER IS INCORPORATED IN THIS PETITION AS (APPENDIX-C-) THIS COURT HAS JURISDICTION UNDER 28 U.S.C. § 1257

VI CONSTITUTIONAL PROVISIONS, RULES AND REGULATIONS  
THIS CASE IS PREMISED ON THE FIFTH SIXTH AND FOURTEENTH AMENDMENTS OF THE U.S. CONSTITUTION

### VIII STATEMENT OF CASE

THIS CASE DEALS WITH PRE-SENTENCED / PRETRIAL CRIMINAL DEFENDANT (PETITIONER) ILICH VARGAS, ATTEMPTS TO FURTHER DISCOVERY EFFORTS AND TO OBTAIN EVIDENCE AND INFORMATION IN CONNECTION TO TWO CRIMINAL JAILHOUSE INFORMANTS THAT THE PROSECUTOR HAS INJECTED INTO THE PENDING PROSECUTION WITH INTENTIONS TO USE THEM AS STATE EVIDENCE AGAINST MR. VARGAS AT TRIAL. BUT, WHOM IT HAS BEEN ALLEGED AND SHOWN TO HAVE PROVIDED CLEARLY FABRICATED MISINFORMATION WHICH HAS BEEN MANIFESTED IN THE CASE, HOWEVER THAT THE DISTRICT ATTORNEY PROSECUTOR APPEARS TO REMAIN AND OR ACT WITH BLATANT DISREGARD TOWARDS THE TREACHERY ON BEHALF OF THESE TWO INDIVIDUALS, JOHN HANSON AND RANDY TURPIN, AND WHO'S STATEMENTS TO LAW ENFORCEMENT ARE COMPLETELY CONTRADICTORY TO EACH OTHER. THE PROSECUTE, REMAINS RELUCTANT TO CORRECT THE ERRORS NOR TO EVEN INVESTIGATE INTO THE MANIFESTED LIES AND FABRICATIONS, AND IS RELUCTANT TO INQUIRE AND INVESTIGATE WITHIN THE DISTRICT ATTORNEY'S OFFICE FILES INTO THE JAILHOUSE INFORMANTS' PRIOR CRIMINAL CASES, AND IN ORDER TO DETERMINE WHETHER THE INFORMANTS HAVE PREVIOUSLY ASSISTED LAW ENFORCEMENT AGENTS, EITHER AS INFORMANTS OR WITNESSES FOR THE STATE; AND WHETHER THEY HAVE EVER RECEIVED ANY TYPE OF BENEFIT, CONSIDERATION OR REWARD IN EXCHANGE FOR THEIR ASSISTANCE; OR FOR ANY OTHER INFORMATION AND EVIDENCE THAT WOULD CAST A SHADOW OVER THEIR CREDIBILITY AS WITNESSES. AND IN THIS SERIOUS CASE WHERE THE PETITIONER HAS BEEN ACCUSED OF GROSS VEHICULAR MANSLAUGHTER DUE,

AND MURDER.

ON SEPTEMBER 22, 2017 THE TRIAL COURT HONORABLE JUDGE LEE DENIED PETITIONER'S MOTION FOR PRE-TRIAL DISCOVERY PERTAINING TO THE TWO JAILHOUSE INFORMANTS, HOWEVER THE PROBLEM PRESENTED DURING ARGUMENT OF THE MOTION IS THAT THE PROSECUTOR CANDIDLY DENIED KNOWING OF ANY PRIOR CASES IN WHICH THE TWO INFORMANTS SERVED AS INFORMANTS OR WITNESSES FOR THE STATE, NOR WHETHER THEY HAD EVER RECEIVED ANY DEALS, OR LENIENCY, OR CONSIDERATIONS IN EXCHANGE FOR THEIR ASSISTANCE WITH LAW ENFORCEMENT OFFICIALS. NONETHELESS, THE DISTRICT ATTORNEY DID ALSO REPRESENTED BY WORDS AND SUBSTANCE THAT SHE HAD NOT CONDUCTED ANY TYPE OF INVESTIGATION NOR INQUIRY INTO THE JAILHOUSE INFORMANTS' PRIOR HISTORY AND INVOLVEMENTS AS INFORMANTS OR WITNESSES FOR THE STATE, AND THE PROSECUTOR HAD FAILED TO, AT THE VERY LEAST, TO ASK THE TWO INFORMANTS THEMSELVES, WHETHER OR NOT THEY HAD ASSISTED THE STATE IN ANY PRIOR CRIMINAL CASES IN EXCHANGE FOR SPECIAL TREATMENTS. SEE ("PETITION FOR WRIT OF MANDATE", CAL. 4TH. DIST. CRT. OF APPEAL NO. E069306 AND HEREAFTER "MANDATE", AT P. 3-9) THE PROSECUTOR FIRST REPRESENTED THAT SAN BERNARDINO COUNTY DISTRICT ATTORNEY'S OFFICE AND/OR THE LOCAL LAW ENFORCEMENT AGENCIES DO NOT HAVE ANY TYPE OF "DATA BASE", NOR A PRACTICAL SYSTEM TO MONITOR, KEEP RECORDS OF, AND TO ASSESS THESE TYPES OF JAILHOUSE INFORMANTS, THAT CAN BE SERIOUS POTENTIAL HARM TO THE PUBLIC AND OUR JUSTICE

SYSTEM, AND THAT RAISES REASONABLE PUBLIC CONCERN. HOWEVER, LATER IN THE DISCUSSION THE PROSECUTOR STATES DURING THE HEARING THAT THE ACTUAL DISTRICT ATTORNEY'S OFFICE DID KEEP SOME TYPE OF RECORD "NOTES IN THE FILES" THAT WOULD STATE IF THE TWO JAIL HOUSE INFORMANTS WERE EVER CALLED AS "WITNESSES" FOR THE STATE. BUT, THE DISTRICT ATTORNEY GIVES THE CLEAR IMPRESSION THAT SHE MADE NO EFFORT TO INQUIRE INTO THE DISTRICT ATTORNEY'S FILES FOR ANY OF THESE "NOTES," THAT SHE ADMITTED WOULD STATE IN WHAT CASES THESE TWO JAILHOUSE INFORMANTS COULD HAVE, VERY WELL BEEN INVOLVED BY ASSISTING THE STATE TO OBTAIN A CONVICTION, AND WHETHER ANY TYPE OF CONSIDERATION OR SPECIAL TREATMENT WAS GIVEN TO THEM IN EXCHANGE FOR ASSISTING THE GOVERNMENT IN ANY PRIOR CRIMINAL CASES. (ED)

THIS SITUATION CREATES A SERIOUS PROBLEM, BECAUSE FOR ONE, THE PETITIONER, AS A PRO-PER DEFENDANT AND/OR HIS INVESTIGATOR, DO NOT HAVE ACCESS TO THE DISTRICT ATTORNEY'S OFFICE FILES, SPECIALLY IN LIGHT OF CONFIDENTIALITY RULES AND POLICIES. AND SECOND, BY THE PROSECUTING ATTORNEY'S METHODS OF DELIBERATELY CHOOSING TO REMAIN IGNORANT OF ANY POTENTIAL DISCOVERABLE AND FAVORABLE BRADY MATERIALS, THE PROSECUTOR IS PROVIDING A POTENTIALLY FALSE IMPRESSION WHEN ASCERTAINING THAT NO FAVORABLE DISCOVERIES EXIST, BUT WITHOUT FIRST PERFORMING HER OBLIGATIONS TO INQUIRE AND INVESTIGATE IN ORDER TO PROVIDE A VALID AND WELL-INFORMED ANSWER TO THE TYPE OF DISCOVERY REQUESTS AS DISCUSSED ABOVE, PERTAINING TO CRIMINAL

JAILHOUSE INFORMANTS; AND OF WHOM THE HIGH COURTS HAVE REASONABLY CAUTIONED MUST BE CLOSELY MONITORED AND ASSESSED IN ORDER TO PREVENT AND CORRECT THE GRAVE POTENTIAL FOR SELF-SEEKING AND TREACHEROUS ACTIONS BY SUCH INDIVIDUALS OF FABRICATING LIES AND ACCUSATIONS AGAINST THE INNOCENT, AS IS THE CASE IN THIS MATTER. (COMPARE EXHIBIT 4 TO MANDATE AT P 294-333) 4

ON SEPTEMBER 22, 2011 THE PETITIONER ATTEMPTED TO ADDRESS THE ABOVE-STATED AND MANY OTHER BAD-FAITH TACTICS AND METHODS ON BEHALF OF THE PROSECUTOR AND THE DISTRICT ATTORNEYS OFFICE AND THAT SERVE AS EVIDENCE OF AN EXISTING CONFLICT OF INTEREST, OFFICIAL ANIMUS, BIAS DISCRIMINATION AND/OR PREJUDICE AGAINST THE DEFENDANT/ PETITIONER AND THAT IS EXTRANEOUS TO THE DISTRICT ATTORNEY AND DISTRICT ATTORNEYS' OFFICE ABILITY TO PERFORM THE DISCRETIONARY FUNCTIONS OF A PROSECUTOR IN A FAIR AND EVENHANDED MANNER.

PETITIONER PRESENTED MANY CLAIMS / ALLEGATIONS SUPPORTED BY A SUBSTANTIAL RECORDS - SEE (EXHIBIT 1 TO MANDATE; "MOTION TO DISQUALIFY THE PROSECUTING ATTORNEY" (PEN. CODE. § 1424), THAT WAS FILED WITH THE MOVING PAPERS IN THE RESPONDENT COURT). THE CLAIMS AND ALLEGATIONS RANGE FROM, BUT ARE NOT LIMITED TO: BAD-FAITH, PARTIAL AND RECKLESS INVESTIGATION TACTICS THAT RESULTED IN CRITICAL KNOWN AND APPARENT EXCULPATORY AND POTENTIALLY EXCULPATORY EVIDENCE TO BE LOST AND DESTROYED; DELIBERATE BAD-FAITH SUPPRESS-



ION OF MATERIAL EXCULPATORY EVIDENCE DURING THE CRITICAL STAGE OF PRELIMINARY EXAMINATION AND THAT RESULTED IN IRREPARABLE PREJUDICE TO THE PREPARATION OF THE CRIMINAL DEFENSE; BAD-FAITH TACTICS OF MISINFORMING AND MISREPRESENTATIONS TO THE COURTS OF LAW IN ORDER TO SUBVERT AND INTERFERE WITH EXERCISE OF CIVIL RIGHTS TO SELF-REPRESENTATION; BAD-FAITH RECKLESS USE OF KNOWN AND CLEARLY APPARENT LYING CRIMINAL JAILHOUSE INFORMANTS TO ORCHESTRATE METHODS OF SUBVERSION AND INTERFERENCES WITH THE PREPARATION OF A CRIMINAL DEFENSE AND THE ATTORNEY CLIENT RELATIONSHIP; PETITIONER ALSO FILED A CIVIL RIGHTS LAW SUIT AGAINST THE DISTRICT ATTORNEYS OFFICE IN CONNECTION TO THE DISTRICT ATTORNEYS DELIBERATE SUBVERSION INTO MATTERS OF THE DEFENSE; THE PROSECUTOR WILL BE A WITNESS AT TRIAL. SEE (EXHIBIT 1 AND 4 OF PETITION FOR WRIT OF MANDATE).

AT THE HEARING THE COURT DEPRIVED AND DENIED THE PETITIONER/ DEFENDANT OF AN EVIDENTIARY HEARING AND OF AN ADEQUATE AND MEANINGFUL OPPORTUNITY TO PRESENT EVIDENCE IN ACCORDANCE TO DUE PROCESS DEMANDS, . THUS THE TRIAL COURT JUDGES FACTUAL DETERMINATIONS, WHEN DENYING THE MOTION TO DISQUALIFY THE PROSECUTING ATTORNEY IS PRESUMED LEGALLY UNREASONABLE. SPECIALLY IN LIGHT OF THE FACT THAT, THE JUDGES FACTUAL FINDINGS, BASED ON THE FACE OF THE RECORD, WERE UNSUPPORTED BY THE SUBSTANTIAL PROFFERED EVIDENCE IN SUPPORT OF THE ORIGINAL MOTION.

NOT ONLY WAS PETITIONER DEPRIVED OF FUNDAMENTAL PROCEDURAL SAFEGUARD TO AN EVIDENTIARY HEARING, BUT HE IS ALSO BEING

SIMULTANEOUSLY AND STRUCTUALLY DEPRIVED OF AN OPPORTUNITY TO CREATE AN ADEQUATE AND ACCURATE RECORD IN THE TRIAL COURT, IN ACCORDANCE TO EXHAUSTION OF ADMINISTRATIVE REMEDIES AND COMITY DOCTRINES AS REQUIRED BY LAW, BUT THAT WILL ULTIMATELY SUBVERT AND INTERFERE IN THE PETITIONER'S ABILITY TO MEANINGFULLY ACCESS THE REMEDY PROCEDURES, SHOULD HE BE WRONGLY CONVICTED, AND HE WILL BE PREVENTED FROM RECEIVING A MEANINGFUL APPEAL AND/OR COLLATERAL REVIEW DUE TO THE INHERENT PERVERSION AND DEFICIENCY CREATED IN THE COURT RECORDS WHEN BEING DEPRIVED OF A MEANINGFUL EVIDENTIARY HEARING AND OF OPPORTUNITY TO RAISE AND PRESENT HIS CLAIMS OF STATE AND FEDERAL CONSTITUTIONAL DIMENSION. SEE (EXHIBIT 4 AT P. 267 - 275 TO MANDATE)

FURTHERMORE, DUE TO THE TYPES OF ERRORS CREATED BY THESE PRESENT CIRCUMSTANCES AND THE INFECTION CREATED IN THE CRIMINAL PROCESS FROM BEGINNING TO, AND EVEN AFTER ANY POTENTIAL CONVICTION, AS EXPLAINED ABOVE, THERE EXISTS A REAL AND OBJECTIVELY MANIFESTED POTENTIAL FOR GREAT IMMEDIATE AND IRREPARABLE PREJUDICE AND DAMAGES TO THE PETITIONER WITHOUT A TIMELY AND REASONABLE REVIEW AND THE CORRECTION OF THE ERRORS AT THIS STAGE AND BEFORE TRIAL. IT WOULD DEFY THE PRINCIPLES OF ORDERLY ADMINISTRATION OF JUSTICE TO PROLONG THE REVIEW, ANSWERS AND CORRECTION TO THE ISSUES, PRESENTED HERE UNTIL AFTER ANY POTENTIAL CONVICTION, AND SUBJECTING THE PETITIONER

TO UNNECESSARY AND UNDOE HARDSHIPS AND DELAYS  
TO REMEDY CONSTITUTIONAL CIVIL RIGHTS VIOLATIONS.

PETITIONER SOUGHT FOR WRIT OF MANDATE RELIEF IN  
GOOD FAITH TO THE 4TH DISTRICT COURT OF APPEALS AND  
IN A PRAYER FOR BASIC REMEDIES (MANDATE AT P. 20-22):

1. AN ORDER TO THE SUPERIOR COURT TO VACATE ITS  
PRIOR DECISION OVER THE "MOTION FOR PRETRIAL  
DISCOVERY" ENTERED SEPTEMBER 22, 2017, AND FOR  
THE SUPERIOR COURT TO ISSUE A MANDATE DIRECTED  
TO THE DISTRICT ATTORNEY AND THE DISTRICT ATTOR-  
NEYS OFFICE TO CONDUCT AN ADEQUATE INVESTIGATION  
INTO THE "OFFICE FILES" AND "NOTES" INCLUDING IN  
THE PRIOR CRIMINAL CASES OF THE TWO CRIMINAL  
JAILHOUSE INFORMANTS, AND TO VERIFY WHETHER  
ANY OF THE INFORMANTS (RANDY TURPIN OR JOHN  
HANSON) SERVED AS STATE "WITNESSES" IN ANY PRIOR  
CRIMINAL CASES IN EXCHANGE TO ANY SPECIAL TREAT-  
MENTS, CONSIDERATIONS, DEALS, LENIENCY, REWARDS,  
AND/OR INCENTIVES AND INFORMATION THAT MAY CAST  
A SHADOW OVER THE INFORMANTS VERACITY AND THEIR  
CREDIBILITY, AND FOR AN ORDER DIRECTING THE PROSECUTOR  
TO TURN OVER IN DISCOVERY ANY SUCH EVIDENCE THAT  
MAY BE DISCOVERED, AFTER, A PROPER AND GOOD-FAITH  
INVESTIGATION.
2. AN ORDER TO THE SUPERIOR COURT TO VACATE ITS PRIOR  
DECISION OVER THE "MOTION TO DISQUALIFY THE DISTRICT  
ATTORNEY" AND TO PROVIDE THE PARTIES AN OPPORTUNITY

TO CONDUCT AN ACTUAL EVIDENTIARY HEARING; TO CALL UPON WITNESSES AND PRESENT EVIDENCE IN ACCORDANCE WITH THE RULES OF EVIDENCE AND DUE PROCESS DEMANDS. THEN AFTER HAVING CONDUCTED AN EVIDENTIARY HEARING, AND THE COURT BEING WELL-INFORMED OF THE FACTS AND EVIDENCE, TO ENTER A NEW DECISION AND JUDGMENT IN ACCORDANCE TO THE PREVAILING LAWS AND AUTHORITIES.

THE COURT OF APPEALS DENIED RELIEF ON NOVEMBER 28, 2017. THUS THE PETITIONER HEREBY PETITIONS TO THIS COURT FOR WRIT OF CERTIORARI IN A PRAYER FOR A FAIR AND APPROPRIATE REVIEW. BECAUSE THE SUPREME COURT OF CALIFORNIA ALSO DENIED RELIEF ON JANUARY 31, 2018. THUS THE PETITIONER IS WITHOUT ANY OTHER PLAIN, ADEQUATE AND SPEEDY REMEDY IN THE ORDINARY COURSE OF LAW EXCEPT BY THIS PRESENT PETITION TO THE U.S. SUPREME COURT. AND DUE TO THE NATURE OF THE ERRORS IN THE RESPONDENT COURT OVER THESE ISSUES, THE PETITIONER IS SUBJECT TO GREAT IMMEDIATE AND IRREPARABLE DAMAGES AND INJURY WITHOUT A TIMELY REVIEW OF THE CASE AND GRANT OF AN APPROPRIATE REMEDY TO THE STRUCTURAL PREJUDICE OF THE PROCEEDINGS.

AN URGENT STAY IS REASONABLY REQUESTED, AND MERITED, UNTIL A RESOLUTION OF THIS MATTER IN THE SUPERIOR COURT BY IN LIGHT OF THE EXCEPTIONAL CIRCUMSTANCES PRESENTED HERE, AND IN THE BEST INTEREST OF JUSTICE.

IX REASONS FOR GRANTING THE WRIT  
A.

THE DECISION BY THE STATE COURT OF LAST RESORT IS IN CONFLICT WITH ITS OWN PRIOR DECISIONS AND WITH DECISIONS OF THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT.

1) DISTRICT ATTORNEYS / PROSECUTORS HAVE A FREESTANDING OBLIGATION TO INVESTIGATE AND INQUIRE INTO THE BACKGROUNDS OF CRIMINAL JAILHOUSE INFORMANTS INCLUDING PROSECUTION CASE FILES AND FILES IN POSSESSION OF OTHER LAW ENFORCEMENT AGENCIES (PROBATION OR PAROLE) AND TO ASCERTAIN WHETHER THE CRIMINAL INFORMANTS HAVE SERVED AS INFORMANTS OR WITNESSES FOR THE STATE IN ANY PRIOR CRIMINAL PROSECUTIONS AGAINST ANY PERSON IN EXCHANGE FOR ANY BENEFITS, CONSIDERATIONS, PROMISES OR ASSISTANCE AND TO DETERMINE WHETHER THERE IS ANY EVIDENCE THAT SHEDS A SHADOW ON THEIR CREDIBILITY. AND REGARDLESS WHETHER ANY CONSIDERATIONS OR BENEFITS WERE GIVEN.

IT IS A FUNDAMENTAL PRINCIPLE OF THE AMERICAN CRIMINAL JUSTICE SYSTEM THAT DELIBERATE DECEPTION OF A COURT AND JURORS BY PRESENTATION OF KNOWN FALSE EVIDENCE IS INCOMPATIBLE WITH RUDIMENTARY DEMANDS OF JUSTICE. PHILIPS V. ORNOSKI 673 F.3d 1168, 1181 (9TH CIR 2012) QUOTING GIGLIO V. UNITED STATES 405 U.S. 150, 153 (1972)

THE UNITED STATES SUPREME COURT AND THE NINTH CIRCUIT COURT OF APPEALS HAVE MADE IT PERFECTLY CLEAR THAT THE PROSECUTOR'S DUTY TO DISCLOSE EVIDENCE FAVORABLE

1 TO THE ACCUSED EXTENDS TO INFORMATION KNOWN ONLY TO  
2 POLICE. KYLES V. WHITLEY 514 U.S. 419, 438 (1995). THE STATE  
3 PROSECUTOR DOES NOT SATISFY ITS BRADY OBLIGATION TO DISCLOSE  
4 EXCULPATORY EVIDENCE BY MAKING SOME AVAILABLE AND ASSESS-  
5 ING THE REST WOULD BE CUMULATIVE. RATHER THE STATE IS  
6 OBLIGATED TO TURN OVER ALL MATERIAL INFORMATION CASTING  
7 A SHADOW ON A GOVERNMENT WITNESS'S CREDIBILITY. CARRIGER  
8 V. STEWART 132 F.3d 463, 460 (9TH CIR 1997) AND ALSO  
9 PEOPLE V. ROBINSON 32 CAL APP 4TH 494, 499 (2D DIST. 1995)  
10 "EVIDENCE THAT A JAIL HOUSE SNITCH RECEIVED MATERIAL  
11 BENEFITS FROM THE PROSECUTION IS SPECIALLY IMPORTANT  
12 BECAUSE WITHOUT THAT EVIDENCE THE INFORMANT MASQUERADES  
13 AS A DISINTERESTED OBSERVER." BELMONTE V. BROWN 414 F.3d  
14 1094 (2005)  
15  
16 EVEN WHEN A PROSECUTION WITNESS WHOM IS CURRENTLY  
17 FACING PROSECUTION HAS RECEIVED BENEFITS TO COOPERATE WITH  
18 LAW ENFORCEMENT IN PRIOR CASES THE PROSECUTOR HAS A DUTY  
19 TO DISCLOSE THIS FACT. PEOPLE V. KASIM 56 CAL. APP 4TH  
20 1360, 1382 (4TH DIST 1997). THE PROSECUTOR HAS THE DUTY  
21 TO LEARN OF ANY EXCULPATORY EVIDENCE KNOWN TO OTHERS  
22 ACTING ON THE GOVERNMENTS BEHALF. BECAUSE THE PROSECUTOR  
23 IS IN A UNIQUE POSITION TO ACCESS AND OBTAIN INFORMATION  
24 POSSESSED IN GOVERNMENT FILES OR THAT IS KNOWN BY OTHER  
25 AGENTS, IT MAY NOT BE EXCUSED FROM DISCLOSING WHAT IT  
26 DOES NOT KNOW, BUT COULD HAVE LEARNED. CARRIER V STEWART  
27 132 F.3d 463, 479-480 (9TH CIR. 1997)

1 " THIS TRUTH-SEEKING FUNCTION CANNOT BE FULFILLED WHEN THE  
2 STATE KNOWING THAT A WITNESS MAY HAVE PERJURED HERSELF,  
3 PROCEEDS WITHOUT CONDUCTING AN INVESTIGATION TO ENSURE THAT  
4 A NEW TRIAL IS NOT WARRANTED. THE DUTY TO INVESTIGATE  
5 FLOWS FROM THE CONSTITUTIONAL OBLIGATION OF THE STATE AND  
6 ITS REPRESENTATIVES TO COLLECT POTENTIALLY EXCULPATORY  
7 EVIDENCE, TO PREVENT FRAUD UPON THE COURT AND TO ELICIT  
8 THE TRUTH. <sup>22</sup> [CITATION] MORRIS V. YIST 447 F.3d 735, 744  
9 (9TH CIR 2006)

10  
11 THUS IN THIS INSTANT MATTER IT FOLLOWS THAT THE TRIAL COURT  
12 HAD THE AUTHORITY, AND POWER, AND SHOULD HAVE ISSUED A  
13 COURT ORDER TO COMPEL THE DISTRICT ATTORNEY'S OFFICE AND THE  
14 PROSECUTOR TO CONDUCT A SUFFICIENT INVESTIGATION INTO THE  
15 CRIMINAL JAILHOUSE INFORMANTS' PRIOR CRIMINAL CASE "FILES"  
16 AND RECORDS POSSESSED BY THE DISTRICT ATTORNEY'S OFFICE AND  
17 OTHER GOVERNMENT AGENTS, IN CONNECTION TO ANY EVIDENCE AND  
18 INFORMATION THAT PERTAINS TO ANY PRIOR CORROBORATIONS WITH  
19 LAW ENFORCEMENT OFFICIALS IN EXCHANGE FOR SPECIAL PROMISES  
20 BENEFITS, DEALS, SPECIAL CONSIDERATIONS, ETC. FOR ACTING  
21 EITHER AS WITNESSES OR INFORMANTS IN ANY PRIOR CRIMINAL  
22 CASES. BUT MOST IMPORTANTLY IN ORDER FOR THE PROSECUTOR  
23 TO BE SUFFICIENTLY INFORMED IN ORDER TO INTELLIGENTLY  
24 AND COMPETENTLY ANSWER TO AND/OR COMPLY WITH DISCOVERY  
25 REQUEST INTO SUCH EVIDENCE, AFTER FIRST CONDUCTING AN  
26 HONEST INVESTIGATION TO ELICIT THE TRUTH. SUCH INVESTIGATION  
27 IS REASONABLY EXPECTED FROM THE STATE PROSECUTING AGENTS

1 TO MAKE AN INTELLIGENT AND WELL-INFORMED DETERMINATION,  
2 AND TO PROVIDE A VALID AND COMPETENT RESPONSE TO A  
3 DISCOVERY REQUEST INTO THE JAILHOUSE INFORMANTS' PRIOR  
4 COOPERATION WITH LAW ENFORCEMENT, BUT MOST IMPORTANT,  
5 WHETHER THE INFORMANT HAS A PRIOR HISTORY OF PROVIDING  
6 FALSE OR DISCREETIBLE INFORMATION AND REGARDLESS IF ANY ACTUAL  
7 DEALS, PROMISSES OR SPECIAL TREATMENT IN EXCHANGE FOR THEIR  
8 CORROBORATION WAS MADE.

9  
10 MOREOVER, WHERE AS HERE, IT IS REASONABLY QUESTIONABLE  
11 WHETHER A PROSECUTOR HAS MADE ANY EFFORT TO CONDUCT SUCH  
12 INVESTIGATIONS, THE COURT SHOULD, IN THE EXERCISE OF SOUND  
13 AND REASONABLE DISCRETION, ISSUE AN ORDER TO THE PROSECUTOR  
14 AND/OR DISTRICT ATTORNEY'S OFFICE TO REASONABLY AND IN  
15 GOOD-FAITH CONDUCT SUCH AN INVESTIGATION, BEFORE EVEN  
16 ATTEMPTING TO RESPOND TO A REQUEST FOR DISCOVERY OF THAT TYPE  
17 OF EVIDENCE ABOUT JAILHOUSE INFORMANTS' PRIOR ASSISTANCE  
18 WITH LAW ENFORCEMENT IN PREVIOUS CRIMINAL CASES

19  
20 NEEDLESS-TO-MENTION, SUCH DUTIES ARE NOT JUST REQUIRED  
21 AND EXPECTED UNDER THE CIVIL RIGHT CLAUSES OF A CRIMINAL  
22 DEFENDANT'S RIGHT TO ACCESS INFORMATION AND EVIDENCE, THAT  
23 IS MATERIAL TOWARDS THE CREDIBILITY OR INTERESTS OF A CRIMINAL  
24 JAILHOUSE INFORMANT'S INVOLVEMENT IN A CRIMINAL CASE, BUT  
25 MOST IMPORTANTLY, TO PROTECT OUR JUSTICE SYSTEM AND  
26 THE PUBLIC'S CONFIDENCE IN OUR OFFICIALS, FROM THE TREACHERY,  
27 MUCKERY, AND SERIOUS POTENTIAL DAMAGES THESE TYPE OF  
28 CRIMINALS ARE VERY LIKELY TO CAUSE IF GONE UNCHECKED.



1 2) DISQUALIFICATION OF A PROSECUTOR MAY BE NECESSARY WHEN  
2 A CONFLICT OF INTEREST EXISTS; OR, A PROSECUTOR SUFFERS  
3 FROM PREJUDICE AGAINST THE DEFENDANT THAT AFFECTS HIS/HER  
4 ABILITY TO PERFORM HIS DISCRETIONARY FUNCTIONS IMPARTIALLY  
5

6 "A CONFLICT OF INTEREST DISQUALIFIES A DA FROM PROSECUTING A  
7 CASE IF THE CONFLICT EITHER AFFECTS OR APPEARS TO AFFECT HIS  
8 ABILITY FAITHFULLY TO PERFORM THE DISCRETIONARY FUNCTIONS OF  
9 HIS OFFICE." PEOPLE V. CONNER 34 CAL. 3d 141, 147 \_\_\_\_\_  
10 (1983)  
11

12 THE PROSECUTOR IS A PUBLIC OFFICIAL VESTED WITH CONSIDERABLE  
13 DISCRETIONARY POWER TO DECIDE WHAT CRIMES ARE TO BE CHARGED  
14 AND HOW THEY ARE TO BE PROSECUTED. PROSECUTORIAL IMPARTIALITY  
15 IS PERHAPS MOST IMPORTANT DURING THE CHARGING PROCESS.  
16 NEVERTHELESS, PROSECUTORIAL DISCRETIONARY FUNCTIONS ARE NOT  
17 CONFINED TO THE PERIOD BEFORE THE FILING OF CHARGES. WHILE  
18 THE TRIAL JUDGE HAS THE POWER TO PREVENT ACTUAL PROSECUTORIAL  
19 MISCONDUCT IN COURT, WITHIN THOSE BOUNDS, THE DISTRICT ATTORNEY  
20 POSSESSES THE ADVOCATE'S TRADITIONAL ABILITY TO CONDUCT HIS  
21 OR HER CASE IN THE MANNER HE OR SHE ELECTS. THESE TYPES  
22 OF DISCRETIONARY JUDGMENTS INCLUDE THE MANNER THE PROSECUTOR  
23 CONDUCTS VOIR DIRE EXAMINATIONS; THE GRANTING OF IMMUNITY  
24 THE USE OF PARTICULAR WITNESSES OR TESTS; THE CHOICE OF  
25 ARGUMENTS OR THE SHOWING OF DETAILS OF THE CRIME; THE  
26 PARTICULAR PROSECUTORIAL INVESTIGATIONS INTO KNOWN AND  
27 APPARENT EXCULPATORY AND POTENTIALLY EXCULPATORY EVIDENCE  
28 OR EVIDENCE THAT WOULD HELP CLARIFY THE REALITY AND THE TRUTH

1 OR FACTUAL CIRCUMSTANCES OF AN INCIDENT LEADING TO CRIMINAL  
2 ACCUSATIONS. PROSECUTORS ALSO RETAIN DISCRETION OVER PLEA BARGAINS.  
3  
4 THE THEME WHICH RUNS THROUGHOUT THE CRIMINAL PROCEDURE  
5 IN THIS STATE IS THAT ALL PERSONS SHOULD BE PROTECTED FROM  
6 HAVING TO DEFEND AGAINST FRIVOLOUS PROSECUTIONS AND THAT  
7 ONE MAJOR SAFEGUARD AGAINST SUCH PROSECUTIONS IS THE  
8 FUNCTION OF DISTRICT ATTORNEY IN SCREENING CRIMINAL CASES  
9 PRIOR TO INSTITUTING A PROSECUTION. PEOPLE V. MUNICIPAL  
10 COURT 27 CAL. APP. 3d 193, 205-206 \_\_\_\_\_ (2d DIST  
11 1972)  
12  
13 THE SUPREME COURT CONSTRUES THE STATUTE AS TO PROHIBITING  
14 RECUSAL SOLELY ON THE GROUND OF THE APPEARANCE OF IMPROPRIETY  
15 "WHETHER THE PROSECUTOR'S CONFLICT IS CHARACTERIZED AS  
16 ACTUAL OR ONLY APPARENT THE POTENTIAL FOR PREJUDICE TO THE  
17 DEFENDANT - THE LIKELIHOOD THAT THE DEFENDANT WILL NOT  
18 RECEIVE A FAIR TRIAL - MUST BE REAL NOT MERELY APPARENT  
19 AND MUST RISE TO THE LIKELIHOOD OF UNFAIRNESS". PEOPLE V.  
20 EUBANKS 14 CAL 4TH 580, 592 \_\_\_\_\_ (1996)  
21  
22 HISTORICALLY RECUSAL OF AN ENTIRE DISTRICT ATTORNEY'S OFFICE  
23 HAS BEEN RARE. PEOPLE V. ZAPIEN 4 CAL 4TH 929 968 (1993)  
24 PEOPLE V. CANNEDY 176 CAL 4TH 1474, 1482 \_\_\_\_\_ (2009)  
25 FOR THE MOST PART RECUSAL HAS BEEN ORDERED FOR AN INDIVIDUAL  
26 PROSECUTOR. THE COURTS HAVE RECOGNIZED THE FOLLOWING  
27 GROUNDS FOR RECUSAL: (1) PROSECUTOR HAS A PROVEN BIAS  
28 AGAINST THE DEFENDANT. PEOPLE V. CONNER 34 CAL 3d 141,

1 198-149 \_\_\_\_\_ (1983); (2) PROSECUTOR IS EMBROILED  
2 IN A CIVIL LITIGATION WITH THE DEFENDANT IN THE PROSECUTION  
3 OF CRIMINAL CASE. PEOPLE V. SUPERIOR COURT (GREER) 19 C.3d  
4 255, 261 \_\_\_\_\_ (1977) SEE ALSO PEOPLE V. BATTIN 77 CAL.  
5 APP 3d 635 671 (4TH DIST. 1978); (3) THE PROSECUTOR WILL HAVE  
6 TO TESTIFY AT TRIAL. COMDEN V. SUPERIOR COURT 20 CAL3d 906,  
7 912-916 \_\_\_\_\_ (1978) SEE ALSO CAL. RULES OF PROF.  
8 CONDUCT RULE 5-210 AND PEOPLE V. DONALDSON 93 CAL  
9 APP. 4TH 916 (5TH CIR 2001)

10  
11 IN THIS INSTANT MATTER SUBSTANTIAL SUPPORT AND EVIDENCE  
12 EXISTS THAT CLEARLY AND REASONABLY MERIT DISQUALIFICATION  
13 OF THE PROSECUTORIAL ATTORNEY IN THIS CASE IN ACCORDANCE WITH  
14 THE AUTHORITY LAW SET FORTH HEREIN. COMPARE TO (DECLARATION IN  
15 SUPPORT OF MOTION TO DISQUALIFY THE PROSECUTING ATTORNEY)

16  
17  
18 3) IMPORTANCE OF PROSECUTORIAL IMPARTIALITY IS PARAMOUNT  
19 AND INDISPENSABLE TO THE INTEGRITY OF JUSTICE

20  
21 THE PROSECUTOR'S OFFICE IS OBLIGATED NOT ONLY TO PROSECUTE  
22 WITH VIGOR BUT ALSO TO SEEK JUSTICE. THIS THEME WAS STRESSED  
23 MORE THAN A HALF CENTURY AGO BY THE UNITED STATES COURT IN  
24 BERGER V. U.S. 295 U.S 78 88 \_\_\_\_\_ (1935) WHEN IT SAID:  
25 "THE PROSECUTOR IS THE REPRESENTATIVE NOT OF AN ORDINARY  
26 PARTY TO A CONTROVERSY BUT OF A SOVEREIGN WHOSE OBLIGATION  
27 TO GOVERN IMPARTIALITY IS AS COMPELLING AS ITS OBLIGATION TO  
28 TO GOVERN AT ALL AND WHOSE INTEREST, THEREFORE, IN A CRIMINAL

1 PROSECUTION IS NOT THAT IT SHALL WIN A CASE BUT THAT JUSTICE  
2 SHALL BE DONE."

3  
4 "WE MUST RELY ON OUR PROSECUTORS TO CARRY OUT THEIR FIDUCIARY  
5 OBLIGATION TO EXERCISE THEIR DISCRETIONARY DUTIES FAIRLY AND  
6 JUSTLY - TO AFFORD EVERY DEFENDANT WHETHER SUSPECTED OF  
7 CRIMES HIGH OR PETTY, EQUAL TREATMENT UNDER THE LAW."  
8 [CITATION] "OUR PUBLIC PROSECUTORS ARE CHARGED WITH AN  
9 IMPORTANT AND SOLEMN DUTY TO ENSURE THAT JUSTICE AND FAIRNESS  
10 REMAINS THE TOUCHSTONE OF OUR CRIMINAL JUSTICE SYSTEM. IN  
11 THE VAST MAJORITY OF CASES, THESE MEN AND WOMEN PERFORM  
12 THEIR DIFFICULT JOBS WITH PROFESSIONALISM ADHERING TO THE  
13 HIGHEST OF THE HIGHEST ETHICAL STANDARDS OF THEIR CALLING?"  
14 HOLLYWOOD V. SUPERIOR COURT 43 CAL. 4TH 721, 735 (2008)

15  
16  
17 A) SHOWING OF PERSISTENT PROSECUTORIAL MISCONDUCT AND/OR  
18 IMPROPER BAD FAITH TACTICS MAY BE MATERIAL EVIDENCE THAT  
19 SUPPORTS THE EXISTENCE OF A CONFLICT MERITING RECUSAL.

20  
21 GENERALLY A SHOWING OF "BAD FAITH" IS NOT REQUIRED TO SUPPORT  
22 RECUSAL OF PROSECUTING ATTORNEY. RECUSAL DOES NOT EVEN  
23 REQUIRE A SHOWING OF MISCONDUCT. BUT PROSECUTORIAL BAD FAITH  
24 BECOMES A MATERIAL CONSIDERATION WHERE THE USE OF TACTICS IS AT  
25 ISSUE. THE PERSISTENT, BAD FAITH USE OF LITIGATION TACTICS, SUCH AS  
26 OBSTRUCTING DISCOVERY AND IMPAIRING DEFENSE PREPARATION MAY  
27 BECOME CIRCUMSTANTIAL EVIDENCE OF EXISTING CONFLICT RENDERING  
28 FAIR TRIAL UNLIKELY. PEOPLE V. SUPERIOR COURT 43 CAL. 4TH 737, 747 (2008)

1 a) REPEATED SUBVERSION INTO THE PREPARATION OF A DEFENSE IS  
2 EVIDENCE OF A CONFLICT BECAUSE PROSECUTORS CANNOT TAKE  
3 ANY ACTIONS THAT INTERFERES AND INFRINGES ON A DEFENDANTS  
4 SIXTH AMENDMENT CIVIL RIGHTS TO ASSISTANCE OF COUNSEL  
5  
6 "LAW ENFORCEMENT AGENTS ARE ENTRUSTED WITH AWSOME POWER.  
7 BUT WITH THAT POWER ALSO COMES A RESPONSIBILITY... AMONG  
8 THESE STANDARDS IS THE REQUIREMENT THAT THE PROSECUTOR NOT...  
9 ACT IN A MATTER THAT CIRCUMVENTS AND THEREBY DILUTES THE  
10 PROTECTION AFFORDED BY THE RIGHT TO COUNSEL. WHILE DISTRICT  
11 ATTORNEYS ARE EXPECTED TO PROSECUTE THEIR CASES WITH CONSIDER-  
12 ABLE VIGOR AND DISPATCH, THEY 'MAY STRIKE HARD BLOWS BUT  
13 ARE NOT AT LIBERTY TO STRIKE FOUL ONES.' BY CONSPIRING  
14 TO VIOLATE [THE DEFENDANTS] CONSTITUTIONAL RIGHTS THE  
15 PROSECUTOR STRUCK A FOUL BLOW." MORROW V. SUPERIOR COURT  
16 30 CAL APP 4TH 1252, 1262-1263 (1994) [EMPHASIS ADDED]  
17 (EXHIBIT 4 TO MANDATE AT P. 294 - 305, 312-314, 318-319,  
18 333-337)

19  
20 b) EVIDENCE OF A CONFLICT MAY BE OBJECTIVELY SHOWN BY THE  
21 WILLFUL AND RECKLESS SUPPRESSION OF EXCULPATORY AND  
22 POTENTIALLY EXCULPATORY EVIDENCE ON BEHALF OF PROSECUTORS  
23 BECAUSE IT VIOLATES SETTLED PRINCIPLES OF DUE PROCESS OF LAW.

24  
25 "THE SUPPRESSION BY THE PROSECUTION OF EVIDENCE FAVORABLE  
26 TO AN ACCUSED UPON REQUEST VIOLATES DUE PROCESS WHERE THE  
27 EVIDENCE IS MATERIAL TO GUILT OR TO PUNISHMENT, IRRESPECTIVE  
28 OF GOOD FAITH OR BAD FAITH OF THE PROSECUTION." BRADY V. MARYLAND

1 373 U.S. 83, 87 — — (1963) THE BRADY OBLIGATIONS OF  
2 DISCOVERY EXPANDS TO THE CRITICAL STAGE OF THE PRELIMINARY  
3 EXAMINATION - MAGALLAN V. SUPERIOR COURT 192 CA4TH 1444, 1459  
4 (2011) AND SEE PEOPLE V. GUTIERRES 214 CAL. APP. 4TH 343, 348-349  
5 (2013)

6

7 IN KYLES V. WHITLEY 514 U.S. 419 (1995) THE UNITED STATES  
8 SUPREME COURT HELD THAT THE PROSECUTOR HAS A DUTY TO SEARCH  
9 AND INQUIRE WITHIN THE "PROSECUTORIAL TEAM" TO LOCATE  
10 EXCULPATORY EVIDENCE. THE COURT SAID: "THE INDIVIDUAL PROSECUTOR  
11 HAS A DUTY TO LEARN ANY FAVORABLE EVIDENCE KNOWN TO THE  
12 OTHERS ACTING ON THE GOVERNMENT'S BEHALF IN THE CASE. (ID. AT  
13 P. 137-138). HOWEVER COMPARE TO (EXHIBIT 1 AT P. 7-8, 13;  
14 40-42, 45-55 AND EXHIBIT 4 AT P. 281-293 OF MANDATE.)

15

16 C) EVIDENCE OF A CONFLICT MAY BE OBJECTIVELY SHOWN BY THE  
17 WILLFUL AND RECKLESS FAILURE TO COLLECT AND PRESERVE KNOWN  
18 AND APPARENT EXCULPATORY AND/OR POTENTIALLY EXCULPATORY  
19 EVIDENCE BY THE PROSECUTORIAL AGENTS AND THAT RESULTS IN BAD  
20 FAITH LOSS AND DESTRUCTION, BECAUSE IT CLEARLY VIOLATES FAIR  
21 DUE PROCESS PRINCIPLES.

22

23 "A BAD FAITH FAILURE TO COLLECT POTENTIALLY EXCULPATORY  
24 EVIDENCE WOULD VIOLATE THE DUE PROCESS CLAUSE." MILLER V.  
25 YASQUEZ 868 F.2d 1116 1120 (9TH CIR 1989). "WE MADE IT  
26 ABUNDANTLY CLEAR THAT THE DUE PROCESS REQUIRES LAW ENFORCEMENT  
27 NOT JUST TO PRESERVE EVIDENCE ALREADY IN HAND, BUT TO GATHER  
28 AND TO COLLECT EVIDENCE IN THOSE CASES IN WHICH THE POLICE

1 THEMSELVES BY THEIR CONDUCT INDICATE THAT EVIDENCE COULD  
2 FORM A BASIS FOR EXONERATING THE DEFENDANT.<sup>377</sup> (ID) AT P.  
3 1121) SEE ALSO COMMONWEALTH OF NORTHERN MARIANA ISLANDS  
4 V. BOWIE 243 F.3d 1109, 1117 (2001) AND TENNISON V. CITY AND  
5 COUNTY OF SAN FRANCISCO 570 F.3d 1078, 1088-1089 (9TH CIR 2008)  
6 BUT COMPARE EXHIBIT 1 OF MANDATE AT P. 34-42)

7  
8 d) EVIDENCE OF A CONFLICT MAY BE OBJECTIVELY SHOWN BY THE  
9 WILLFUL AND RECKLESS FAILURE TO PREVENT AND OR CORRECT  
10 MALEVOLENT DISINFORMATION AND TREACHERY CAUSED BY LYING  
11 AND DISHONEST CRIMINAL INFORMANTS, ON BEHALF OF THE STATE  
12 AND PROSECUTORIAL AGENTS BECAUSE IT VIOLATES WELL SETTLED  
13 PRINCIPLES OF DUE PROCESS GUARANTEED PROTECTIONS.

14  
15 "FEW THINGS ARE MORE REPUGNANT TO THE CONSTITUTIONAL  
16 EXPECTATIONS OF OUR CRIMINAL JUSTICE SYSTEM THAN COVERT  
17 PERJURY AND ESPECIALLY PERJURY THAT FLOWS FROM A CONCERTED  
18 EFFORT BY REWARDED CRIMINALS TO FRAME A DEFENDANT. THE  
19 ULTIMATE MISSION OF THE SYSTEM UPON WHICH WE RELY TO PROTECT  
20 THE LIBERTY OF THE ACCUSED AS WELL AS THE WELFARE OF SOCIETY  
21 IS TO ASCERTAIN THE FACTUAL TRUTH, AND TO DO SO IN A MANNER  
22 THAT COMPORTS WITH DUE PROCESS OF LAW AS DEFINED BY OUR  
23 CONSTITUTION. THIS MISSION IS UTTERLY DERAILED BY UNCHECKED  
24 LYING LYING WITNESSES, AND BY ANY LAW ENFORCEMENT OFFICER OR  
25 PROSECUTOR WHO FINDS IT TACTICALLY ADVANTAGEOUS TO TURN A BLIND  
26 EYE TO THE MANIFEST POTENTIAL FOR MALEVOLENT DISINFORMATION."<sup>378</sup>  
27 COMMONWEALTH OF NORTHERN MARIANA ISLANDS 243 F.3d AT P.  
28 1115

1 "CRIMINAL INFORMANTS ARE CUT WITH FROM UNTRUSTWORTHY  
2 CLOTH AND MUST BE MANAGED AND CAREFULLY WATCHED  
3 BY GOVERNMENT AND THE COURTS TO PREVENT THEM FROM  
4 FALSELY ACCUSING THE INNOCENT, FROM MANUFACTURING  
5 EVIDENCE AGAINST THOSE UNDER SUSPICION OF A CRIME AND  
6 FROM LYING UNDER OATH IN THE COURTROOM... A  
7 PROSECUTOR WHO DOES NOT APPRECIATE THE PERILS OF USING  
8 REWARDED CRIMINALS AS WITNESSES RISK COMPROMISING THE  
9 TRUTH-SEEKING MISSION OF OUR CRIMINAL JUSTICE SYSTEM.  
10 BECAUSE THE GOVERNMENT DECIDES WHETHER AND WHEN TO  
11 USE SUCH WITNESSES AND WHAT IF ANYTHING TO GIVE  
12 THEM FOR THEIR SERVICE THE GOVERNMENT CAN EITHER  
13 CONTRIBUTE OR ELIMINATE THE PROBLEM. ACCORDINGLY WE  
14 EXPECT PROSECUTORS AND INVESTIGATORS TO TAKE ALL REASONABLE  
15 MEASURES TO SAFEGUARD THE SYSTEM AGAINST TREACHERY.  
16 THIS RESPONSIBILITY INCLUDES THE DUTY TO TURN OVER TO THE  
17 DEFENSE IN DISCOVERY ALL MATERIAL INFORMATION CASTING  
18 A SHADOW ON A GOVERNMENT WITNESS CREDIBILITY." <sup>22</sup>  
19 UNITED STATES V. FILEMON BERNAL-OBESO 989 F.2d 331  
20 F.2d 331 (9TH CIR 1993) BUT COMPARE (EXHIBIT 4 TO MANDATE AT P.  
21 294-333)

22  
23 IN THE INSTANT MATTER PETITIONER HAS SUFFICIENTLY PLEAD  
24 AND SUPPORTED HIS CLAIMS OF BAD-FAITH PROSECUTORIAL  
25 MISCONDUCT THAT INTERFERED WITH THE PREPARATION OF THE  
26 DEFENSE DURING NUMEROUS TIMES AND BY EMPLOYMENT OF  
27 VARIOUS DIFFERENT METHODS OF TACTICAL SUBVERSION OF THE  
28 CRIMINAL DEFENSE THAT MERIT DISQUALIFICATION FROM THE CASE.



-B-

THIS CASE INVOLVES QUESTIONS OF EXCEPTIONAL IMPORTANCE BECAUSE THE STATE COURTS OF LAST RESORT DECIDED AN IMPORTANT FEDERAL QUESTION IN A WAY THAT CONFLICTS WITH RELEVANT DECISIONS OF THE SUPREME COURT AND SUBSTANTIALLY AFFECTS A RULE OF NATIONAL APPLICATION IN WHICH THERE IS AN OVERRIDING NEED FOR NATIONAL UNIFORMITY.

1) THE STATES IS DEPRIVING PETITIONER PLAIN, ADEQUATE AND SPEEDY REMEDIES IN THE ORDINARY COURSE OF LAW, SPECIALLY DURING THE PENDENCY OF CRIMINAL PROSECUTION, WHERE VIOLATIONS OF SUBSTANTIAL STATE AND FEDERAL CONSTITUTIONAL CIVIL RIGHTS THREATEN TO UNDERMINE AND ERRODE THE FUNCTION AND INTEGRITY OF THE TRIAL PROCESS MECHANISM FROM BEGINNING TO END.

"OUR FEDERAL SYSTEM ENTRUST THE STATE WITH PRIMARY RESPONSIBILITY FOR THE ADMINISTRATION OF THEIR LAWS. THE FOURTEENTH AMENDMENT AND THE SUPREMACY CLAUSE MAKE REQUIREMENT OF FAIR AND JUST PROCEDURES AN INTEGRAL PART OF THOSE LAWS . . . IF BY EFFECTIVE PROCESS THE STATE ASSUMES THIS BURDEN THE EXHAUSTION REQUIREMENTS . . . WOULD CLEARLY PROMOTE STATE PRIMACY IN THE IMPLEMENTATION OF THESE GUARANTEES - OF GREATER IMPORTANCE IT WOULD ASSURE NOT ONLY THAT MERITORIOUS CLAIMS WOULD GENERALLY BE VINDICATED WITHOUT ANY NEED FOR FEDERAL COURTS' INTERVENTION . BUT THAT MERITORIOUS CLAIMS WOULD BE FULLY VENTILATED MAKING EASIER THE TASK OF THE FEDERAL JUDGE IF THE STATE PRISONER PURSUES HIS ACTION FURTHER. CASE V. STATE OF NEBRASKA 381 U.S 336, 345-347 (1965)

1 (1965)

2  
3 " THE PROCEDURE SHOULD BE SWIFT AND COMPREHENSIVE TO  
4 EMBRACE ALL FEDERAL CONSTITUTIONAL CLAIMS. IN LIGHT  
5 OF FAY V. NOIA [CITATION] IT SHOULD ESCHEW RIGID AND  
6 TECHNICAL DOCTRINES OF FORFEITURE WAIVER OR DEFAULT... IT  
7 SHOULD PROVIDE FOR A FULL FACT HEARING TO RESOLVE DISPUTED  
8 FACTUAL ISSUES AND FOR COMPILATION OF A RECORD TO ENABLE  
9 FEDERAL COURTS TO DETERMINE THE SUFFICIENCY OF THOSE HEARINGS  
10 (22) SEE ALSO HURLES V. RYAN 706 F.3d 1021 (9TH CIR 2013)

11  
12 THE NINTH CIRCUIT COURT OF APPEALS SAID IN HURLES  
13 V. RYAN SUPRA THAT: " WE HAVE HELD REPEATEDLY THAT  
14 WERE A STATE COURT MAKES FACTUAL FINDINGS WITHOUT AN  
15 EVIDENTIARY HEARING OR OTHER OPPORTUNITY FOR [DEFENDANT]  
16 TO PRESENT EVIDENCE " THE FACT FINDING PROCESS ITSELF IS  
17 DEFICIENT<sup>2</sup> AND NOT ENTITLED TO DEFERENCE. [CITATION]. IF  
18 FOR EXAMPLE A STATE COURT MAKES EVIDENTIARY FINDINGS  
19 WITHOUT HOLDING A HEARING AND GIVING [DEFENDANT] AN  
20 OPPORTUNITY TO PRESENT EVIDENCE SUCH FINDING CLEARLY  
21 RESULT IN UNREASONABLE DETERMINATION OF FACT.<sup>3</sup>  
22 [EMPHASIS ADDED] (ID AT P 1038- 1039)

23  
24 CALIFORNIA COURTS ALSO STRICTLY ENFORCES ITS OWN JUDICIAL  
25 RULE THAT ANY MATTERS OF FACT, EVIDENCE AND INFORM-  
26 ATION IN SUPPORT OF ANY CLAIMS WILL NOT BE CONSIDERED  
27 ON APPEAL IF ITS NOT INCLUDED AND APPARENT IN THE TRIAL  
28 COURT RECORDS.

1 THE CALIFORNIA SUPREME COURT HAS EXPLICITLY HELD:  
2 "PETITIONER COULD NOT PRESENT [THIS] CONSTITUTIONAL  
3 CONTENTIONS ON APPEAL BECAUSE ITS FACTUAL BASE WERE  
4 NOT DISCLOSED ON THE RECORD ON APPEAL... 'IT IS  
5 ELEMENTARY THAT THE FUNCTION OF AN APPELLATE COURT  
6 IN REVIEWING A TRIAL COURT JUDGMENT ON DIRECT APPEAL  
7 IS LIMITED TO CONSIDERATION OF MATTERS CONTAINED IN THE  
8 RECORDS OF TRIAL PROCEEDINGS' AND THAT 'MATTERS NOT  
9 PRESENTED BY THE RECORD CANNOT BE CONSIDERED ON THE  
10 SUGGESTION OF COUNSEL IN THE BRIEF.'")) IN RE HOCHBERG  
11 2 CAL.3d 870, 875 (1970) SEE ALSO PEOPLE V. MERRIAM  
12 66 2d 396 (1967) AND PEOPLE V. SZETO 29 C3d 20 (1981)  
13  
14 IN THE INSTANT MATTER THE TRIAL COURT NOT ONLY EFFECTIVELY  
15 DEPRIVED THE PETITIONER OF STATE AND FEDERAL CIVIL RIGHTS  
16 TO FAIR PROCEDURAL DUE PROCESS BY DEPRIVING HIM OF AN  
17 ADEQUATE AND MEANINGFUL EVIDENTIARY HEARING FOR THE  
18 SEPTEMBER 22, 2017 MOTION TO DISQUALIFY THE DISTRICT  
19 ATTORNEY. BUT, THE COURT ALSO CREATED A SYSTEMIC AND  
20 STRUCTURAL PERVERSION THAT WILL AXIOMATICALLY DEPRIVE  
21 THE PETITIONER FROM HIS RIGHT TO MEANINGFULLY TAKE AN  
22 APPEAL AND REVIEW, AS OF RIGHT, OVER SUCH CRITICAL ISSUES,  
23 BECAUSE, THE COURT PREVENTED AND DEPRIVED THE PETITIONER FROM  
24 A MEANINGFUL OPPORTUNITY TO PRESENT EVIDENCE AND TO CALL  
25 ON WITNESSES AT AN EVIDENTIARY / ADVERSARIAL HEARING  
26 AND THEREBY PREVENTING AN ADEQUATE AND SUFFICIENT  
27 "COURT RECORD" TO BE DEVELOPED AND "COMPILED" IN  
28 ORDER FOR ANY MEANINGFUL APPEAL OR REVIEW TO BE TAKEN.

1 2) THE STATE IS PREVENTING THE DEFENDANT FROM MEANINGFUL  
2 OPPORTUNITY TO PRESENT A COMPLETE DEFENSE.

3  
4 THE SUPREME COURT HAS SAID THAT "WHETHER ROOTED DIRECTLY  
5 IN THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT  
6 [CITATION] OR IN THE COMPULSORY PROCESS OR CONFRONTATION  
7 CLAUSE OF THE SIXTH AMENDMENT [CITATION] THE  
8 CONSTITUTION GUARANTEES A CRIMINAL DEFENDANT 'A  
9 MEANINGFUL OPPORTUNITY TO PRESENT A COMPLETE DEFENSE?  
10 [CITATION]' CRANE V. KENTUCKY 476 U.S. 683, 690-691  
11 (1986)

12  
13 THE SUPREME COURT HAS FURTHER MADE IT CLEAR WHAT THE  
14 SAFEGUARDS ARE FOR A COMPLETE DEFENSE: "IN ALL CRIMINAL  
15 PROSECUTION THE ACCUSED SHALL ENJOY THE RIGHT... TO BE  
16 INFORMED OF THE NATURE AND CAUSE OF THE ACCUSATION; TO  
17 BE CONFRONTED WITH WITNESSES AGAINST HIM; TO HAVE  
18 COMPULSORY PROCESS FOR OBTAINING WITNESSES AND TO HAVE  
19 ASSISTANCE OF COUNSEL FOR HIS DEFENSE. BECAUSE THESE RIGHTS  
20 ARE BASIC TO OUR ADVERSARIAL SYSTEM OF CRIMINAL JUSTICE THEY  
21 ARE PART OF THE 'DUE PROCESS OF LAW' THAT IS GUARANTEED BY  
22 THE FOURTEENTH AMENDMENT TO DEFENDANTS IN CRIMINAL  
23 COURTS OF THE STATE. THE RIGHT TO NOTICE, CONFRONTATION  
24 AND COMPULSORY PROCESS WHEN TAKEN TOGETHER GUARANTEE THAT  
25 A CRIMINAL CHARGE MAY BE ANSWERED IN A MANNER NOW  
26 CONSIDERED FUNDAMENTAL TO THE FAIR ADMINISTRATION OF  
27 AMERICAN JUSTICE THROUGH THE CALLING AND INTERROGATION OF  
28 FAVORABLE WITNESSES; THE CROSS EXAMINATION OF ADVERSE

1 WITNESSES, AND ORDERLY INTRODUCTION OF EVIDENCE.<sup>22</sup> FARETTA V.  
2 CALIFORNIA 422 U.S. 806, 818 - 820 (1975)

3  
4 THESE GUARANTEES APPLY TO PRE-TRIAL PROCEEDINGS AS THE COURTS  
5 RECOGNIZES. "ALSO 'CRITICAL FOR SIX AMENDMENT PURPOSES IS  
6 THE PERIOD BETWEEN ARRAIGNMENT AND TRIAL WHEN A CASE  
7 MUST BE FACTUALLY DEVELOPED AND RESEARCHED ... AND  
8 PRETRIAL MOTIONS FILED. IN DEED IT IS CLEAR THAT 'TO  
9 DEPRIVE A PERSON OF COUNSEL DURING THE PERIOD PRIOR TO  
10 TRIAL MAY BE MORE DAMAGING THAN DENIAL OF COUNSEL DURING  
11 TRIAL ITSELF."<sup>23</sup> HURRELL - HARRING V. STATE OF NEW YORK IS  
12 N.Y. 3d 8, 21-22 (2D CIR 2010) RELYING ON MAINE V. MOULTON  
13 474 U.S. 159 (1985) AND POWEL V. STATE OF ALABAMA 287  
14 U.S. 45 (1932)

15  
16 AND WHEN "A DEFENDANT WHO MUST FACE FELONY CHARGES IN  
17 STATE COURTS WITHOUT ASSISTANCE OF COUNSEL GUARANTEED BY  
18 THE SIXTH AMENDMENT HAS BEEN DENIED DUE PROCESS. UNLESS  
19 DEFENDANT CHARGED WITH SERIOUS OFFENSE ... [IS] ABLE TO  
20 INVOKE THE PROCEDURAL AND SUBSTANTIVE SAFEGUARDS THAT  
21 DISTINGUISH OUR SYSTEM OF JUSTICE SERIOUS RISK OF  
21 INJUSTICE INFECTS THE TRIAL. [CITATION] WHEN A STATE OBTAINS  
22 A CRIMINAL CONVICTION THROUGH SUCH TRIAL IT IS THE STATE  
23 THAT UNCONSTITUTIONALLY DEPRIVES THE DEFENDANT OF HIS  
24 LIBERTY."<sup>24</sup> COYLER V. SULLIVAN 496 U.S. 335, 343 (1980).  
25 [EMPHASIS ADDED]. THIS IS WHY IT WAS MADE VERY CLEAR BY  
26 THE SUPREME COURT WHEN IT SAID "THE GOVERNMENT VIOLATES  
27 THE RIGHT TO EFFECTIVE ASSISTANCE WHEN IT INTERFERES IN  
28 CERTAIN WAYS WITH THE ABILITY [OF THE ACCUSED] TO CONDUCT

1 A DEFENSE.<sup>22</sup> STRICKLAND V. WASHINGTON 466 U.S. 688, 685-686  
2 (1984) [EMPHASIS ADDED]

3  
4 APPLYING THESE SETTLED PRINCIPLES OF LAW TO THIS CASE, IT IS  
5 EVIDENT THAT THE TRIAL COURT HAS DEPARTED FROM THEM,  
6 AND HAS DIRECTLY VIOLATED MR VARGAS' DUE PROCESS RIGHTS BY  
7 DEPRIVING HIM OF THE PROCEDURAL SAFEGUARDS TO PRESENT HIS  
8 PRE-TRIAL MOTIONS AND DEFENSE; DEPRIVED HIM FROM THE  
9 ADEQUATE COMPULSORY PROCESS; FROM CALLING AND EXAMINING  
10 THE ADVERSE WITNESSES TO THE STAND; FROM PRESENTING  
11 EVIDENCE; AND FROM DEVELOPING AND ESTABLISHING AN  
12 ADEQUATE AND SUFFICIENT RECORD FOR APPEAL DURING THE  
13 SEPTEMBER 22, 2018 HEARING OVER CLAIMS OF OUTRAGEOUS  
14 PROSECUTORIAL MISCONDUCT, BIAS AND PREJUDICE ON BEHALF OF  
15 SAN BERNARDINO COUNTY DISTRICT ATTORNEY'S OFFICE AND  
16 THE PROSECUTING ATTORNEY THAT WAS RAISED DURING THE  
17 HEARING OF THE MOTION TO DISQUALIFY THE DISTRICT  
18 ATTORNEY AND THAT IS ULTIMATELY CAUSING UNCONSTITUTIONAL  
19 DEPRIVATION OF LIBERTY.

20  
21 3) SUPREME COURT INTERVENTION IS NECESSARY AND  
22 MERITED IN THIS CASE TO CORRECT THE CLEAR AND PLAIN  
23 PREJUDICE CREATED BY DUE PROCESS VIOLATIONS TAKING  
24 PLACE AND THAT SYSTEMATICALLY UNDERMINE THE ENTIRE  
25 CRIMINAL PROCESS FROM BEGINNING TO END INCLUDING THE  
26 APPELLATE PROCESS AND THAT IS RESULTING IN GREAT,  
27 IMMEDIATE AND IRREPARABLE DAMAGES TO THE PETITIONER.  
28

1 THE CALIFORNIA COURTS HAVE GENERALLY RECOGNIZED THAT  
2 IN ORDERLY ADMINISTRATION OF JUSTICE WHENEVER NO OTHER  
3 REMEDIES ARE AVAILABLE A PETITION FOR WRIT OF MANDATE  
4 OR PROHIBITION IS SUPPOSED TO PROVIDE A PLAIN, ADEQUATE  
5 AND SPEEDY REMEDY IN THE ORDINARY COURSE OF LAW TO  
6 REVIEW AND CORRECT ERRONEOUS AND INCORRECT TRIAL  
7 COURT DECISIONS AND RULINGS THAT ARE MADE IN AN  
8 ABUSE OF DISCRETION. SEE CALIFORNIA RULES OF COURT  
9 RULES 8.485 TO 8.493 AND SMITH V. SUPERIOR COURT  
10 68 CAL 2D 547 (1968) PATTERSON V. MUNICIPAL COURT  
11 232 CA 2D 284 (1968); AND THAT INCLUDE REVIEW OF  
12 TRIAL COURT ORDERS OVER DISCOVERY ISSUES AND TO  
13 ESTABLISH GENERAL GUIDELINES FOR THE TRIAL COURT TO  
14 FOLLOW. SEE CALIFORNIA HIGHWAY PATROL V. SUPERIOR COURT  
15 85 CAL. APP 4TH 1010 (2000); PEOPLE V. MUNICIPAL COURT  
16 12 CAL. 3D 658 (1974); CALSON V. SUPERIOR COURT 56 CAL.  
17 2D 431 (1961); OR TO REVIEW PRETRIAL DECISIONS THAT  
18 WOULD SUBSTANTIALLY AFFECT DUE PROCESS OR EFFECTIVE  
19 ASSISTANCE OF COUNSEL CIVIL RIGHTS GUARANTEES. SEE  
20 DRUMGO V. SUPERIOR COURT 8 CAL. 3D 930 (1973); MAINE  
21 V. SUPERIOR COURT 68 CAL 2D 375 (1968)  
22  
23 HERE HOWEVER, WE PRESENT A CASE WHERE IT CLEARLY  
24 APPEARS THAT THE CALIFORNIA COURT OF APPEAL FOR THE  
25 FOURTH DISTRICT, DIVISION TWO, AND THE SUPREME COURT  
26 OF CALIFORNIA HAVE DEPARTED FROM, AND NO LONGER  
27 ADHERE TO SUCH GUIDELINES AND PROCEDURE, HENCE, MAKING THE  
28 STATE'S PRE-TRIAL WRIT OF MANDATE OBSOLETE AND USELESS

1 AS A PLAIN, ADEQUATE AND SPEEDY REMEDY TO REVIEW AND  
2 CORRECT VIOLATIONS OF CONSTITUTIONAL CIVIL RIGHTS AND/OR  
3 ABUSE OF DISCRETION ON BEHALF OF TRIAL JUDGES THAT IS  
4 OCCURRING DURING PRE-TRIAL PROCEEDINGS IN THE PENDING  
5 STATE CRIMINAL PROSECUTION.

6  
7 ALTHOUGH THE CALIFORNIA " PETITION FOR WRIT OF MANDATE  
8 AND/OR PROHIBITION REMAINS, IN THEORY, AND ON THE BOOKS,  
9 AS THE PLAIN, ADEQUATE AND SPEEDY REMEDY AND PROCESS TO  
10 CORRECT CONSTITUTIONAL VIOLATIONS DURING THE PENDENCY OF  
11 THE CRIMINAL PROSECUTION, THE REALITY OF THE MATTER IS,  
12 HOWEVER, THAT THE PROCESS IS INADEQUATE, INSUFFICIENT,  
13 INEFFECTIVE AND FUTILE, IN SUBSTANCE, TO PROVIDE ANY  
14 ACTUAL VINDICATION AND PROTECTION OF STATE AND FEDERAL  
15 CONSTITUTIONAL CIVIL RIGHTS DURING THE PRE-TRIAL -  
16 PRE-CONVICTION STAGES OF THE CRIMINAL PROSECUTION WHERE  
17 THE GUARANTEED CONSTITUTIONAL PROTECTIONS FOR AN INNOCENT  
18 PERSON - REASONABLY MEAN THE MOST; AS HAS BEEN THE CASE  
19 IN THIS INSTANT MATTER, WHERE PETITIONER HAS SOUGHT A  
20 NUMBER OF PETITIONS FOR WRIT OF MANDATES FOR REVIEW AND  
21 CORRECTION OF WHAT HAVE BEEN CLEAR AND BLATANT ABUSES  
22 OF DISCRETION AND OBJECTIVELY UNREASONABLE TRIAL COURT  
23 DECISIONS THAT ARE CONTRARY TO CLEARLY ESTABLISHED LEGAL  
24 PRINCIPLES AND STANDARDS. BUT, THAT ALL HAVE GONE WITHOUT  
25 ANY ACTUAL REDRESS; NO OPINION; NO HEARING; AND NO REMEDY,  
26 WHEN BEING SUMMARILY DENIED. SEE (CALIFORNIA COURT  
27 OF APPEAL FOR THE FOURTH DISTRICT, DIVISION TWO, CASE NO:  
28 E061909 (RAISING ISSUES OF FUNDAMENTAL RIGHTS OF PRO-PER



1 INMATES); E063723 (REVIEW OF MOTION TO DISQUALIFY  
2 TRIAL COURT JUDGE FOR CAUSE); E065100 (REVIEW OF MOTION  
3 TO DISQUALIFY JUDGE FOR CAUSE); E065103 (REVIEW OF ABUSE  
4 OF DISCRETION OVER MOTION TO SET ASIDE THE INFORMATION AND  
5 MOTION TO DISMISS); E069306 (REVIEW FOR ABUSE OF DISCRETION  
6 OVER PRE-TRIAL DISCOVERY MOTION AND MOTION TO DISQUALIFY THE  
7 DISTRICT ATTORNEY)

8  
9 THUS, IN ESSENCE WHAT IS TAKING PLACE IS THAT THE CALIFORNIA  
10 COURT OF APPEAL AND THE SUPREME COURT ARE PERMITTING,  
11 PROVIDING FOR, AND LENDING A HAND TO SERIOUS AND FLAGRANT  
12 VIOLATIONS OF STATE AND FEDERAL CONSTITUTIONAL CIVIL RIGHTS  
13 AND HUMAN RIGHTS TO FREEDOM FROM OPPRESSION AT THE  
14 HANDS OF ITS STATE OFFICIALS, WHILE AT THE SAME TIME  
15 DEPRIVING THE PRESUMPTIVELY INNOCENT PETITIONER  
16 FROM ANY PROCESS THAT WOULD PROVIDE ANY ACTUAL SUBSTANTIVE  
17 AND MEANINGFUL VINDICATION AND PROTECTION WHILE HE IS BEING  
18 SYSTEMATICALLY STRIPPED FROM ALL CONSTITUTIONAL CIVIL RIGHTS  
19 PROTECTIONS AND THEREDY HAVING A CRIMINAL CONVICTION /  
20 BEING UNCONSTITUTIONALLY FORCED UPON HIM BY CORRUPT METHODS.

21  
22 THE UNITED STATES SUPREME COURT HAS RECOGNIZED THE GRAVE  
23 DANGER OF THE PRESENT CONDITION WHEN IT SAID: "IN MANY  
24 CASES THERE IS NO QUARREL WITH THE STATE LAWS ON THE  
25 BOOKS [CITATION] INSTEAD THE PROBLEM IS THE WAY THOSE  
26 LAWS ARE OR ARE NOT IMPLEMENTED BY STATE OFFICIALS"  
27 ZINERMON V. BURCH 194 U.S. 113, 125 (1990), RELYING ON  
28 MONROE V. PAPE 365 U.S. 167 (1961)

1 THE NINTH CIRCUIT COURT OF APPEALS HAS ALSO RECOGNIZED  
2 THE LAWLESS CONDITIONS OF OPPRESSION THAT IT CREATES;  
3 "THE AUTHENTIC MAGESTY IN OUR CONSTITUTION DERIVES  
4 IN LARGE MEASURES FROM THE RULE OF LAW - PRINCIPLES AND  
5 PROCESS INSTEAD OF PERSON. CONCEIVED IN THE SHADOW OF AN  
6 ABUSIVE AND UNANSWERABLE TYRANT WHO REJECTS ALL AUTHORI-  
7 TY SAVE HIS OWN OUR ANCESTORS WISELY BIRTHED A  
8 GOVERNMENT, NOT OF LEADERS, BUT SERVANTS OF THE LAW.  
9 NOWHERE IN THE CONSTITUTION, OR IN THE DECLARATION OF  
10 INDEPENDENCE NOR, FOR THAT MATTER, IN THE FEDERALIST OR  
11 IN ANY WRITING OF THE FOUNDING FATHERS CAN ONE FIND A  
12 SINGLE UTTERANCE THAT COULD JUSTIFY A DECISION BY ANY  
13 OATH-BEHOLDER, SERVANT OF THE LAW, TO LOOK THE OTHER  
14 WAY WHEN CONFRONTED BY THE REAL POSSIBILITY OF BEING  
15 COMPLICIT IN THE WRONGFUL USE OF FALSE EVIDENCE TO SECURE  
16 A CONVICTION. WHEN THE PREAMBLE OF THE CONSTITUTION  
17 CONSECRATES THE MISSION OF OUR REPUBLIC IN PART TO THE  
18 PURSUIT OF JUSTICE IT DOES NOT CONTEMPLATE THAT THE POWER  
19 OF THE STATE THEREBY CREATED COULD BE USED IMPROPERLY TO  
20 ABUSE ITS CITIZENS, WHETHER OR NOT, THEY APPEAR FACTUALLY  
21 GUILTY OF OFFENSES AGAINST THE PUBLIC WELFARE." NORTHERN  
22 MARIANA ISLANDS V. BOWIE 243 F.3d 1109 1124-1125 (9TH CIR  
23 2001)

24  
25 "THE ENDS IN OUR JUSTICE SYSTEM DOES NOT JUSTIFY THE  
26 MEANS. OUR CONSTITUTION DOES NOT PROMISE EVERY CRIMINAL  
27 WILL GO TO JAIL. IT PROMISES DUE PROCESS OF LAW. IT IS  
28 LESS EVIL THAT SOME CRIMINAL SHOULD ESCAPE THAN THE

1 GOVERNMENT SHOULD PLAY AN IGNOBLE ROLE. [CITATION] IT  
2 IS 'FOR' THIS REASON THAT THE LAW PLACES THE DUTY TO  
3 MANAGE THIS DIFFICULT BUSINESS WITH UTMOST CARE UPON  
4 THOSE IN THE BEST POSITION AND WITH THE POWER TO ENSURE  
5 THAT IT DOES NOT GO AWRY. ALTHOUGH WE EXPECT LAW  
6 ENFORCEMENT OFFICERS AND PROSECUTORS TO BE TOUGH ON  
7 CRIME AND CRIMINALS, WE DO NOT EXPECT THEM TO BE  
8 TOUGH ON THE CONSTITUTION. [CITATION]. 'NOTHING CAN  
9 DESTROY A GOVERNMENT MORE QUICKLY THAN ITS FAILURE  
10 TO OBSERVE ITS OWN LAWS OR WORSE ITS DISREGARD OF  
11 THE CHARTER OF ITS OWN EXISTANCE.' (I) AT SAME

12  
13 IN THIS CASE WE ARE DEALING WITH A GRAVE AND SERIOUS  
14 PREDICAMENT IN WHICH THE STATE LAW ENFORCEMENT, THE  
15 PROSECUTORS, AND EVEN THE STATE COURTS ARE NOT MERELY  
16 CUTTING CORNERS OR LOOKING THE OTHER WAY TO MANIFESTED  
17 USE OF FALSE EVIDENCE AND INJUSTICE IN ORDER TO OBTAIN  
18 A CONVICTION OF AN INNOCENT PERSON. BUT RATHER, WE PRESENT  
19 A CASE WHERE WIDESPREAD, SYSTEMIC AND CONSTRUCTIVE  
20 METHODOLOGY IS DOING AWAY WITH, AND ABROGATING THE LIFE,  
21 THE SPIRIT, THE MEANING AND THE PURPOSE OF OUR SACRED  
22 CHARTERS OF CIVIL RIGHTS PROTECTIONS AND SPECIALLY  
23 THOSE MEANT TO PROTECT AND PRESEVE LIBERTY, FREEDOM  
24 AND JUSTICE FOR ALL, WHEN A PERSON IS BEING WRONGLY  
25 ACCUSED OF COMMITTING A CRIME AND DEPRIVED OF LIBERTY.  
26 AT THIS POINT PETITIONERS ONLY OPTION IS TO PETITION TO  
THE SUPREME COURT OF THE UNITED STATES IN HOPES THAT

1 THE COURT OF LAST RESORT IN THIS GREAT NATION WHERE  
2 THE IDEALS OF FREEDOM, JUSTICE AND RIGHTEOUSNESS  
3 IS ITS CORNERSTONE, WILL CARRY OUT ITS DUTY TO JUSTICE AND  
4 WILL GRANT REVIEW, CONSIDERATION OF, AND PROVIDE SOME  
5 GUIDENCE AND ORDER TO THE ANOMALITIES THAT ARE  
6 PRESENTED IN THIS CASE, WHERE THE PETITIONER HAS SUFFERED  
7 CLEAR VIOLATIONS OF SUBSTANTIAL CONSTITUTION CIVIL RIGHTS  
8 DURING THE CRITICAL PRE-TRIAL STAGES, FROM THE ARREST  
9 AND LEADING TO TRIAL, AND THAT HAVE CAUSED OBJECTIVELY  
10 DEMONSTRATIVE GREAT IMMEDIATE IRREPARABLE DAMAGES  
11 TO THE CONSTITUTIONAL VALIDITY AND INTEGRITY OF THE ENTIRE  
12 CRIMINAL PROSECUTION PROCESS. YET, HE IS WITHOUT ANY  
13 PLAIN, ADEQUATE AND SPEEDY REMEDY IN THE ORDINARY  
14 COURSE OF LAW IN THE STATE. BECAUSE, THE PROCESS THAT IS  
15 SUPPOSED TO PROVIDE SWIFT AND EFFICACIOUS VINDICATION AND  
16 CORRECTION, ALTHOUGH AVAILABLE IN FORM, HAS NO ACTUAL  
17 SUBSTANCE NOR EFFECT, THUS, RENDERED OBJECTIVELY INADEQUATE  
18  
19 FURTHERMORE, THIS IS A SITUATION WHERE THE STATE AND  
20 THE ATTORNEY GENERAL MAY CLAIM THAT A DIRECT APPEAL  
21 AFTER A CONVICTION IS STILL AVAILABLE, YET FAIL TO RECOGNIZE  
22 AND REGISTER THE FACT THAT THE VERY VIOLATIONS OF CIVIL  
23 RIGHTS DURING THE CRIMINAL PROCEEDING AXIOMATICALLY  
24 RENDER A DIRECT APPEAL "AFTER" A CONVICTION STRUCTURALLY  
25 INADEQUATE, INEFFECTIVE AND INSUFFICIENT TO PROVIDE ANY  
26 SUBSTANTIAL REMEDY OR CORRECTION, THUS RENDERING SUCH  
27 PROCESS ONLY ILLUSORY, BECAUSE OF THOSE REASONS SET

1 FORT AT (ANTE SECTION IX (B) AT P 26-29.)

2  
3 LIKEWISE THE STATE AND THE ATTORNEY GENERAL MAY ATTEMPT TO  
4 ARGUE THAT POST-CONVICTION REMEDY OR WRIT OF HABEAS CORPUS  
5 MAY BE AVAILABLE. NEVERTHELESS, SUCH COURSE TENDS TO BE  
6 JUST AS ILLUSORY AND INACCESSIBLE FOR VARIOUS REASONS AND  
7 SUCH ARGUMENT WOULD BE DEFECTIVE AND FAULTY:

8 FIRST: DIRECT APPEAL UNLIKE POST-CONVICTION REMEDIES EXISTS AS  
9 OF RIGHT AND PROVIDES FOR THE GUARANTEED PROTECTION OF EFFECTIVE  
10 ASSISTANCE OF COUNSEL FOR THE INDIGENT APPELLANT. THERE EXISTS  
11 NO RIGHT TO COUNSEL FOR POST-CONVICTION OR HABEAS CORPUS  
12 PROCEDURES: MURRAY V. GARRATANO 492 U.S. 1, 7 (1989);

13 SECOND: AN INDIGENT PERSON THAT CANNOT AFFORD "POST-CONVICTION"  
14 LEGAL REPRESENTATION WILL ULTIMATELY BE LEFT ENTIRELY ON HIS  
15 OR HER OWN TO DEVELOP EXTREMELY STRINGENT PLEADINGS AND  
16 DOCUMENTS SIMPLY TO HAVE HIS OR HER CLAIM ENTERTAINED  
17 PEOPLE V. DUVAL (1995) 9 C. 4TH 474;

18 THIRD: AND SPEAKING FROM EXPERIENCE, DUE TO THE HIGH  
19 EXPECTATIONS AND STRINGENT (OR) UNFAIR SCREENING STANDARDS THAT  
20 ARE IMPLEMENTED BY SOME COURTS TO DETERMINE WHETHER OR NOT  
21 A PRO-SE / PRO-PER PETITIONER WILL BE PERMITTED ACCESS TO THE  
22 COURTS OF LAW AND JUSTICE; IT IS EXTREMELY DIFFICULT, IF NOT  
23 IMPOSSIBLE FOR THE COMMON LAY PERSON TO MEET AND SATISFY  
24 THE HIGHTENED, STRINGENT AND UNFAIR PLEADING STANDARDS  
25 IMPLEMENTED BY THE COURTS FOR PRO-PER / PRO-SE PLEADING AND FOR  
26 PERSONS THAT DO NOT POSSESS LEGAL SKILLS AND CANNOT AFFORD  
27 LEGAL REPRESENTATION. THEREBY, DEPRIVING FAIR AND MEANINGFUL  
28 ACCESS TO JUSTICE TO THE AGGRIEVED PERSON. COMPARE TO (UNITED

1 STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA  
2 EAST DIVISION CASES NO: CDCV-16-0231-R-KES AND  
3 CDCV-16-01931 (FILED BY PETITIONER AND DISMISSED ON GROUNDS  
4 THAT PETITIONER "FAILED TO STATE A CLAIM")


5  
6 " ... SURELY NO FAIR-MINDED PERSON WILL CONTENTEND THAT  
7 THOSE WHO HAVE BEEN DEPRIVED THEIR LIBERTY WITHOUT DUE  
8 PROCESS OF LAW OUGHT NEVERTHELESS TO LANGUISH IN PRISON...  
9 SUCH ANOMALIES AFFRONT TO THE CONSCIENCE OF CIVILIZED  
10 SOCIETY... IF THE STATES WITHOUT EFFECTIVE REMEDY THE  
11 FEDERAL COURTS HAVE THE POWER AND THE DUTY TO PROVIDE IT." (1)  
12 FAY V. NOIA 372 U.S. 391, 440-441 (1963)

13  
14 "DUE PROCESS DENIED IN PROCEEDINGS LEADING TO A CONVICTION IS  
15 NOT RESTORED JUST BECAUSE THE STATE COURT DECLINED TO  
16 ADJUDICATE THE CLAIMED DENIAL ON THE MERITS." (ID)

17  
18 X. CONCLUSION

19 WHEREFORE, THE FOREGOING REASONS PETITIONER HUMBLY PRAYS  
20 THAT THE COURT WOULD GRANT THE WRIT AND REVIEW THE  
21 ISSUES IN THIS CASE AND TO PLEASE SHED SOME LIGHT AND  
22 GUIDANCE TO CORRECT THE ERRORS PRESENTED

23  
24  
25 RESPECTFULLY SUBMITTED

26  
27  
28   
ILICH VARGAS IN PRO-SE

4/10/2018