

No. \_\_\_\_\_

PG. ONE  
DEFINITE

IN THE  
SUPREME COURT OF THE UNITED STATES

In Re \_\_\_\_\_

BRIAND WILLIAMS — PETITIONER  
(Your Name)

vs.

California & Edmund G. Brown — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE SUPREME COURT FOR THE STATE OF CALIFORNIA

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

PETITION FOR WRIT OF CERTIORARI

BRIAND WILLIAMS c/o  
(Your Name)

c/o BRB WMS-LOGAN-ESQ; 9025 Wilshire Blvd 5<sup>th</sup> Flr  
(Address)

Beverly Hills 90211-1867

(City, State, Zip Code)

None As of Yet but Eventually  
(Phone Number)

## QUESTION(S) PRESENTED

1) Is a Plea Bargain Agreement in essence a contract between the defendant and the prosecutor on behalf of the State??? **And if so**, can the defendant be relieved from the restraints of the agreement when the Statute of Limitations is Jurisdictional in nature, and where the court had lacked jurisdiction to prosecute the matter, Can a defendant be forced and bound to the plea agreement where the Statute of Limitation is was **Not** Longer in existence after *three* (3) years, *three* (3) months, and *fifteen* (15) days. **See** *Cal. Pen. Code* §§800-802 and §804; *Statute of Limitations* (1935) 23 Cal. L. Rev. at pp 525-527; *In re Harris* (1993) 5 C. 4<sup>th</sup> 813, **HN 11**; *People vs. Chapman* (1975) 47 CA 3d 597; *People vs. Hoffman* (1933) 132 CA 60; *People vs. Lynch* (2010) 182 CA 4<sup>th</sup> 1262; *People vs. Sup. Ct. (Meeks)* (1991) 1 C. 4<sup>th</sup> 56, 66 **HN 5**; *United States vs. Williams* (1951) 341 US 58, 68; *In re Albert B. Demillo* (1975) 14 C. 3d 598; *People vs. Miller* (1859) 12 C. 291; *People vs. Picetti* (1899) 124 C. 361; *Ex parte Vice* (1901) 5 C. 153; *People vs. McGee* (1934) 1 C. 2d 611; *People vs. Rose* (1972) 28 CA 3d 414; *People vs. Morgan* (1977) 75 CA 3d 32; *People vs. Chadd* (1981) 28 3d 739; *People vs. Brice* (1988) 206 CA 3d 111; *People vs. Angel* (1999) 70 Cal. 4<sup>th</sup> 1141; *People vs. Williams* (1999) 21 C. 4<sup>th</sup> 335; *Sanders vs. Sup. Ct.* (1999) 76 CA 4<sup>th</sup> 609; *Kellett vs. Sup. Ct.* (1966) 63 C. 2d 822; *In re Davis* (1936) 13 CA 2d 109; *In re McVickers* (1946) 29 C. 2d 264, 274, 280; *In re Carmen* (1957) 48 C. 2d 851, 854; *People vs. Crosby* (1962) 58 C. 2d 713, 724-725; **But, If [not] Under the Color of Law** Is the Defendant entitled under the Equal Protection Analysis and Due Process Clause of our United States Constitution; entitled to an **Evidentiary Hearing** to make a conclusive finding to determine whether the plea bargain between the defendant and the People for the State of California can be enforced even after the State of Calif. Statute of Limitations has long ran out???

2) Once a plea agreement has been reached, can the District Attorney's office **Renegge** on the **ORIGINAL** agreement long after the defendant has full-filled his part of the agreement well over twenty-two (22) years ago after the bargain was reached and nearly twenty (20) years after the defendant completed the three (3) full years of Formal Probation under that **ORIGINAL** agreement??? *Santobello vs. New York* (1971) 404 US 257, 260, 262; *United States vs. Paiva* (D.D.C. 1969) 294 F. supp. 742; *People vs. Cortez* (1970) 13 CA 3d 317; *Buckley vs. Terhune* (9<sup>th</sup> Cir. 2006) 441 F.3d 688, 695; citing: *Ricketts v. Adamson*, (1987) 483 U.S. 1, 6 **n.3**. **In California**, “[a] negotiated plea agreement is a form of contract, and it is interpreted according to general contract principles,” *People v. Shelton* (2006) 37 Cal.4th 759, 767, and “according to the same rules as other contracts,” *People v. Toscano* (2004) 124 CA 4th 340, 344, (cited with approval in Shelton along with other California cases to same effect dating back to 1982). Thus, under Adamson, California courts are required to construe and interpret plea agreements in accordance with state contract law. (See also, *Brown vs. Poole* (9<sup>th</sup> Cir. 2003) 337 F.3d 1155, 1159.)

3) Did the agents, representatives, (DA's office) for the State of California, Revoke the plea bargain agreement without the defendant's knowledge after the first fourteen (14) years from what the defendant had relied upon in the acceptance from the promises made to him back on July 16<sup>th</sup>, 1996 at the time of sentencing, which was to plead "YES" to a 261.5(c) PC and to be released on that very same day? **And**, can the defendant now be charged continuously with "failure to update registration Annually" where there has never been any [I]nitial or Previous registration to update from ever in the defendant's entire life??? The term "**FOLLOWING REGISTRATION**" is meaningless when there is {NO!!!} REGISTRATION to follow. And, Does this **Pre-Indictment Delay** which is in Violation if the Due Process & Equal Protection entitle the defendant to [w]ithdraw his July 15<sup>th</sup>, 2016 Plea???

4) Was the defendant entitled under the United States Constitutions' **VI and XIV** Amendment to a competent appellate attorney and a record that would permit a meaningful presentation of appellate claims, and that by the attorney's failure to appreciate or correct the shortcomings of the record constituted the inadequate assistance of counsel on appeal??? (*Hewitt vs. Helms* (1983) 459 US 460 at p.466; *In re Freeman* (2006) 38 C. 4<sup>th</sup> 630; *Delzell vs. Day* (1950) 36 C. 2d 349, **HN 3.**)

5) Was the defendant denied under the Fourteenth Amendment by the State to full-  
fill its duty to provide appellant with a complete and effective appellant record???

6) Was the defendant put in any unfavorable appellate proceedings that were  
fundamentally unfair in contravention of the Due Process Clauses of the Federal  
Constitution???

7) Was the defendant deprived of a adequate competent active advocate assistance  
by appointed appellate counsel by right under the sixth amendment???

8) Was the defendant deprived and denied any right(s) under California's  
Independent Constitution??? (*Johnson vs. Zerbst* (1938) 304 US 458 at pg. 464.)

9) Is a defendant denied a Due Process right to have a Habeas Corpus Petition filed  
concurrently with his direct appeal by his appointed appellate counsel when the issues  
and facts that warrants' the filing for the petition is surrounded by issues being  
**[e]xtrinsic** from the trial court transcripts because the transcripts were not augmented  
**(devoid-missing)** in order to raise the defendant's issues **Re:** Ineffective Assistance of  
Trial Counsel; Breach of the Original 1996 Plea Bargain; Actual and Factual  
Demonstrably Innocence, Failure to give Advisement about the Constitutional Rights  
– Prior to **or** after obtaining an Induced Plea; And where No~~W~~ Reports Exists in the  
court records for a Factual Basis??? (e.g. **Probation-Police Reports, etc.**)

10) Was the defendant denied an Equal Opportunity Protection under both the State  
and Federal Constitution when he filed a Writ Petition for Review to the States' high

court **Re:** Ineffective Assistance of Appellate Counsel for Counsel's Failure to raise the Plethora of Arguable Issues by Habeas Corpus due to missing court transcripts (see **CRC – Rule 12 or by Rule 10 (c); People vs. Gaston** (1978) 20 C. 3d 476, 481-484 **fn.1, 4**) that were not provided on Direct Appeal??? and, "Did the Supreme Court of California cause further Prejudicial Miscarriage of Justice when it failed to address the core issue raised by the defendant **Re:** Ineffective Assistance of Appellate Counsel on Direct Appeal by way of Habeas Corpus Petition???"

11) Is a Defendant denied the Guaranteed Federal and State Constitutional Rights of Due Process when the California Appellate Project who appoints the appellate Counsel on Appeal Denies the Appellate Attorney(s) the access to file a Habeas Corpus Petition for any Defendant without getting permission to do so by their office first??? And, [If So], by [d]enying a Writ Petition to be filed [d]oes it foreclose all or any opportunity for a defendant to put forth an adequate presentation of his **[extrinsic four corner issues]** from the trial court into the appellate district court, and the Supreme Court of California to determine and make a conclusive determination of factual issues outside of the record already not presented on a direct appeal for a layman? (*Blackledge vs. Allison*, (1977) 431 US 63, 71-83; *Harris vs. Nelson*, (1969) 394 US 286; *Townsend vs. Sain* (1963) 372 US 293, 295-322; *US vs. Carter* (4<sup>th</sup> Cir 1972) 454 F.2d 426, 428; *People vs. Sumstine* (1984) 36 C. 3d 909, 920 **HN 10. Cal. Const. Art. I, Sec. 7, subd (a) (b); Cal. Pen. Code §§1002-1010; People vs. Trujillo** (2016) 244 CA 4<sup>th</sup> 106; *People vs. Barton* (1978) 21 C. 3d 513, 517-518; *Entsminger vs. Iowa* (1967) 386 US 748, **HN 1**; *People vs. Monaghan* (1894) 102 C. 229; *People vs. Goldman* (2014) 225 CA 4<sup>th</sup> 950; CRC-Rules 8.860-8.861 **subds (2)(3)(8)(12)(A)** and CRC-Rules 8.865 -8.867

12) In the most recent United States Supreme Court **Case No. 16-8255 McCoy vs. Louisiana** (5-14-2018) Does the very same principles apply to a defendant on a direct appeal where counsel for the appellant does not follow the appellant's desires and deviates from what the defendant is appealing and from what he has written out on his court filed [Notice of Appeal Form] that outlines the issues to be brought forth before the Court of Appeals??? (see *U.S. vs. Cronic* (1984) 466 US 648; *Davis vs. State Bar* (1983) 33 C. 3d 231; *Rojas v. Unknown* (2017) 2017 US Dist. Lexis 75138, Section-C: Trevino v. Thaler (2013) 569 US 413; *Martinez v. Ryan* (2012) 566 US 1; *Buck vs. Davis* (2017) 137 S. Ct. 759; *U.S. vs. Griffy* (9<sup>th</sup> Cir. 1990) 895 F.2d 561 *Cuyler v. Sullivan* (1980) 466 US 335; *In re Smith* (1970) 3 C. 3d 192, 196; *People v. Pena* (1972) 25 CA 3d 414; *People v. Mendoza-Tello* (1997) 15 C. 4<sup>th</sup> 264; *In re Hochberg* (1970) 2 C. 3d 870; *In re Andrew B.* (1995) 40 CA 4<sup>th</sup> 825 **fn.14**; *People vs. Corona* (1978) 80 CA 3d 684; *In re Banks* (1971) 4 C. 3d 377; *Delgado v. Lewis* (9<sup>th</sup> Cir. 1988) 223 F.3d 976; *Carter vs. Illinois* (1946) 329 US 173; *Turner vs. Duncan* (9<sup>th</sup> Cir. 1988) 158 F.3d 449; *Davis vs. Kramer* (9<sup>th</sup> Cir. 1999) 1999 US App. Lexis 918; *United States vs. Gonzalez-Lopez* (2006) 547 US 140.)

13) Was the Defendant denied both of his Federal and State Constitutional Rights by the trial court's ruling denying two (2) Demurrer Motions because the defendant **was not under actual** Custodial Restraints from his July 16<sup>th</sup>, 1996 sentence although the defendant was under the restraints as a result of the **Collateral Consequences** from the **{Predicate 1996 offense}** that put the defendant under the Microscope of Parole, Bail and on O.R. Release all at the very same time?? Should both of the filed **March 17<sup>th</sup>, 2016** and the filed **April 14<sup>th</sup>, 2016 Demurrer issues been addressed** pursuant to **[Carafas vs. LaVallee** (1968) 391 US 234, 237-242; **Sibron vs. N.Y.** (1968) 392 US 40; **People vs. Succop** (1967) 67 Cal. 2d 785, 789-790; **In re Black** (1967) 66 C. 2d 881, 886-887; **(a)** Because of the "disabilities or burdens [which] may flow from" petitioner's conviction, he has "a substantial stake in the judgment of conviction which survives the satisfaction of the sentence imposed on him." **Fiswick vs. United States** (1946) 329 U. S. 211, 222; **(b) 28 U.S.C. § 2243. Parker vs. Ellis** (1960) 362 U. S. 574 overruled. Pp. 391 U. S. 238-240. **Nowakowski vs. Maroney** (1967) 386 U. S. 542] based upon the two (2) signed bills by Governor Brown **AB813** and **SB1134** that amended the **Cal. Pen. Code §1473 et seq.** for filing. See also **In re Dixon** (1953) 41 C. 2d 756, 762-763;

14) Was it a "Fundamental Miscarriage of Justice" and a Violation of the defendant's Federal and State Constitutional Due Process Rights for the state appellate court Justices to not address the Appellant's arguments and complaints regarding the "overt bias" Prosecutorial and Judicial Hostile Misconduct by the trial court's officers that materially affected [his] substantial rights as a party pursuant to **CCP §630.09 (a)(1)(3)** and under **Post-Trial Motions** §551.180 listed up under the Cal. Forms of Pleading and Practice Annotated (i.e. **Miller vs. Pate** (1967) 386 US 1 **N2**)

15) When a defendant on direct appeal has a multiple (triple) layers of ill will help from court appointed non-effective assistant of counsel claims (**IATC's**) that arise at various levels in his Judicial Proceedings (including with appointed appellate counsel) and the complete case file is "silent to the records on the matters" is it a "Fundamental Miscarriage of Justice" in violation of a Defendant's right to Due Process and Equal Protection of both the Federal and State Constitution, when the appellate court Justices' abused their discretion and all agreed to dismiss the defendant's habeas corpus petition rather than to consolidate the petition with the defendant's direct appeal as cited in "**People vs. Mendoza-Tello** (1997) 15 Cal. 4<sup>th</sup> 264???"

16) Was the defendant denied any Substantial rights when he filed a habeas corpus writ petition to be heard concurrently with the opening brief to argue the extrinsic merits inside of the four corners of a completely missing **Record** on the matters of **Pen Code §1203.72 "Consideration of Probation Report"**; also regarding **No HN 1 Factual Basis** (**People vs. Willard** (2007) 154 CA 4<sup>th</sup> 1329) existed for the {Under Duress Coerced Plea}; An Invalid "Cruz Waiver" extracted by the trial court (**People vs. Herbert** (2007) 156 CA 4<sup>th</sup> 1114, **HN 1, 2**); Appellant's challenge to the Validity of the ill-gotten plea itself (**Gall vs. U.S.** (2007) 522 US 38; **People vs. Munoz** (2006)

138 CA 4<sup>th</sup> 860, 866, 871) and the Improper Denial to discharge retained counsel (*Chapman vs. Calif.* (1967) 386 US 18, 23) when the defendant's appointed counsel on appeal would not file any Writ Petition in the defendant's behalf that could have satisfied the Federal Constitutional Standards but, instead abandoned the defendant during the direct appeal from the denial of a *Certified of Probable Cause Motion* that the trial court jurist didn't want to allow access to the court proceedings transcripts???

17) Was the defendant's 6<sup>th</sup> and 14<sup>th</sup> Amendments Violated by the Appointed appellate counsel for his failure in not filing the proper writ petition on the defendant's behalf that should have addressed the *missing extrinsic issues* when ninety-nine point nine percent (99.9%) of the defendant's appeal dealt with the matters that were *"Extrinsic to the four Silent Devoid Corners from a Verbal Motion to Vacate a Plea"* during the trial court proceedings???

18) Was the defendant abandoned on direct appeal by his court appointed appellate counsel when the defendant wrote and gave every arguable issue to his counsel to raise and file a perfected writ for proper appellate review ***but*** when the appointed counsel *deviates* from what the defendant is appealing from does the matter now also become a *Strickland vs. Washington* (1984) 466 U 668, 692 issue against appointed appellate counsel??? (*People vs. Gzikowski* (1982) 32 C. 3d 580, 586; *People vs. Ramirez* (2006) 39 C, 4<sup>th</sup> 398, 423.)

19) When a defendant is seeking relief as a "class of one" under traditional Equal Protection Analysis and when the appeal record [is both] Silent and Devoid of post historical facts, ***Is it still*** a "Fundamental Miscarriage of Justice" and a Violation of a defendant's Federal and State Constitutional Due Process Rights for the state appellate court Justices to not address the Equal Protection issues raised by the defendant by & through a Habeas Corpus or Mandate Petition??? (*Willowbrook vs. Olech* (2000) 528 US 562, 564; and *SeaRiver Maritime vs. Mineta* (9<sup>th</sup> Cir. 2002) 309 F. 3d 662.)

20) When a defendant raises his long standing claim of his "Actual and Factual Innocence" and offers proof that he can demonstrably prove his Factual Innocence without the help from the *[Devoid Silent Record]* on Direct Appeal, was it another "Fundamental Miscarriage of Justice" and a Violation of the defendant's Federal and State Constitutional Due Process Rights when the state court Justices' refused to *"Take a Second Look"* as required in *McQuiggin vs. Perkins* (2013) 133 S. Ct. 1924

## 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:

- 1) **Governor Edmund Gerald Brown, Jr.** State of California Capital Building Room 1173, Sacramento, California 95814
- 2) **Attn. Xavier Becerra** – Atty. General's Office, 300 S. Spring St. 1<sup>st</sup>. Floor Los Angeles, California 90013
- 3) **Supreme Court of California**, 350 McAllister Street, Room 1295, San Francisco, California 94102-4797
- 4) **Second Appellate District Court**, Ronald Reagan Building, 300 S. Spring Street, 2<sup>nd</sup> Floor – North Tower, Los Angeles, California 90013-1204
- 5) **Los Angeles Superior Court-LASC**, 210 W. Temple Street, Clerk's Office Los Angeles, California 90012
- 6) **Los Angeles District Attorney's Office**, 210 W. Temple Street, District Attorney's Office, Los Angeles, California 90012
- 7) **Briand Williams, c/o BRB WMS-LOGAN-ESQ.**, 9025 Wilshire Blvd. Penthouse Suite 500, 5<sup>th</sup> Floor, Beverly Hills, California 90211-189

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## STATUTES AND RULES

*Cal. Pen. Code* §§800-802 and §804;  
*Cal. Pen. Code* §261.5(c)

## OTHER

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CASES	PAGE NUMBER
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<i>Johnson vs. Zerbst</i> (1938) 304 US 458 at pg. 464;	
<i>People vs. Gaston</i> (1978) 20 C. 3d 476, 481-484 <b>fn.1, 4;</b>	
<i>Blackledge vs. Allison</i> , (1977) 431 US 63, 71-83; <i>Harris vs. Nelson</i> , (1969) 394 US 286;	
<i>Townsend vs. Sain</i> (1963) 372 US 293, 295-322;	
<i>US vs. Carter</i> (4 <sup>th</sup> Cir 1972) 454 F.2d 426, 428;	
<i>People vs. Sumstine</i> (1984) 36 C. 3d 909, 920 <b>HN 10;</b>	
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<i>People vs. Barton</i> (1978) 21 C. 3d 513, 517-518;	
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<i>People vs. Monaghan</i> (1894) 102 C. 229; <i>People vs. Goldman</i> (2014) 225 CA 4 <sup>th</sup> 950;	
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<i>Trevino v. Thaler</i> (2013) 569 US 413; <i>Martinez v. Ryan</i> (2012) 566 US 1;	
<i>Buck vs. Davis</i> (2017) 137 S. Ct. 759; <i>U.S. vs. Griffy</i> (9 <sup>th</sup> Cir. 1990) 895 F.2d 561;	
<i>People v. Pena</i> (1972) 25 CA 3d 414; <i>People v. Mendoza-Tello</i> (1997) 15 C. 4 <sup>th</sup> 264;	
<i>In re Hochberg</i> (1970) 2 C. 3d 870; <i>In re Andrew B.</i> (1995) 40 CA 4 <sup>th</sup> 825 <b>fn.14;</b>	
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<i>Turner vs. Duncan</i> (9 <sup>th</sup> Cir. 1988) 158 F.3d 449;	
<i>Davis vs. Kramer</i> (9 <sup>th</sup> Cir. 1999) 1999 US App. Lexis 918;	
<i>United States vs. Gonzalez-Lopez</i> (2006) 547 US 140.	

## STATUTES AND RULES

*CRC – Rule 10 (C) and Rule 12;*  
*Cal. Pen. Code* §§1002-1010; Re: Demurrers;  
*CRC-Rules 8.860-8.861 subds (2)(3)(8)(12)(A);*  
*CRC-Rules 8.865 -8.867;*

## OTHER

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<i>People vs. Succop</i> (1967) 67 Cal. 2d 785, 789-790;	
<i>In re Black</i> (1967) 66 C. 2d 881, 886-887;	
<i>Fiswick vs. United States</i> (1946) 329 U. S. 211, 222;	
<i>Parker vs. Ellis</i> (1960) 362 U. S. 574 overruled. Pp. 391 U. S. 238-240;	
<i>Nowakowski vs. Maroney</i> (1967) 386 U. S. 542;	
<i>In re Dixon</i> (1953) 41 C. 2d 756, 762-763; <i>Miller vs. Pate</i> (1967) 386 US 1 <b>N2</b> ;	
<i>People vs. Mendoza-Tello</i> (1997) 15 Cal. 4 <sup>th</sup> 264 <b>???</b> ;	
<i>People vs. Willard</i> (2007) 154 CA 4 <sup>th</sup> 1329;	
<i>People vs. Herbert</i> (2007) 156 CA 4 <sup>th</sup> 1114, <b>HN1,2</b> ;	
<i>Gall vs. U.S.</i> (2007) 522 US 38; <i>People vs. Munoz</i> (2006) 138 CA 4 <sup>th</sup> 860, 866, 871;	
<i>Chapman vs. Calif.</i> (1967) 386 US 18, 23;	
<i>Strickland vs. Washington</i> (1984) 466 U 668, 692;	
<i>People vs. Gzikowski</i> (1982) 32 C. 3d 580, 586;	
<i>People vs. Ramirez</i> (2006) 39 C. 4 <sup>th</sup> 398, 423;	
<i>Willowbrook vs. Olech</i> (2000) 528 US 562, 564;	
<i>SeaRiver Maritime vs. Mineta</i> (9 <sup>th</sup> Cir. 2002) 309 F. 3d 662.	
<i>McQuiggin vs. Perkins</i> (2013) 133 S. Ct. 1924.	

## STATUTES AND RULES

**28 U.S.C. § 2243.**

*Cal. Pen. Code §1473 et seq.*

CCP §630.09 (a)(1)(3)

*Post-Trial Motions* §551.180 listed up under the Cal. Forms of Pleading and Practice Annotated;

*Pen Code* §1203.72

*Pen. Code* §17 subd. (b)(1);

*Pen. Code* §1203, subd. (a);

Cal. PC §290.018 subd.(K)(L)

*The Law Revision Commission's Reference to the Model Pen. Code* §1.06 subd (5)

## OTHER

*Assembly Bill 813*

*Senate Bill 1134*

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 SECOND APPELLATE DISTRICT COURT \_\_\_\_\_ 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. 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 July 17<sup>th</sup> 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).

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## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

*Statute of Limitations* (1935) 23 Cal. L. Rev. at pp 525-527;

United States Constitutions' **VI Amendment**

United States Constitutions' **XIV Amendment**

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**Cal. Const. Art. I, Sec. 7, subd (a) (b);**

## STATEMENT OF THE CASE

Back on **July 16<sup>th</sup>, 1996**, the Petitioner, **BRIAND WILLIAMS**, did enter into a Plea Agreement with the District Attorney's Office through is court appoint attorney from the County of Los Angeles Public Defender's Office name John M. Martinez, SBN #69161 in **Case No. BA130843** to One (1) Count to a Charge of PC §261.5(c) for time-serve with credit of 416 day to a misdemeanor **[wobbler]** charge; three (3) yrs formal probation, and pay a \$200.00 Fine, Obey all laws and attend school **or** work and stay out of trouble. No! Suspended Prison sentence was given. ( i.e. See **Pen. Code §17 subd. (b)(1); People v. Hamilton** (1948) 33 Cal. 2d 45, 49 [198 P.2d 873]; **Pen. Code §1203, subd. (a); People vs. Glee** (2000) 82 Cal. App. 4<sup>th</sup> 99, 102-103, 105-106; **People v. Bishop** (1992) 11 Cal. App. 4th 1125, 1130 [15 Cal. Rptr. 2d 539]; **People v. Disibio** (1992) 7 Cal. App. 4th Supp. 1, 6 [9 Cal. Rptr. 2d 20]; **City of Victorville v. County of San Bernardino** (1991) 233 Cal. App. 3d 1312, 1314 [285 Cal. Rptr. 206]

On **August 4<sup>th</sup>, 1998** a progress follow-up probation hearing was held to see how Petitioner was doing. Probation was continued on the same terms and conditions as were placed upon the Petitioner.

On **July 16<sup>th</sup>, 1999** the Petitioner, herein had completed the full three (3) year of formal probation under the terms and conditions without any issues.

On **October 28<sup>th</sup>, 2010** Petitioner, was charged with a violation of PC §290.012(a) for a dismissed 1996 **Case No. BA117193**, under **Case No. BA337243**, even though this was not possible pursuant to the **Cal. PC §290.018** subd.(K) which is now under subd. (L) In the 2017 Penal Code Book. (See Petitioner's complete case history under USDC CV-11-08232; CV-12—05824 **and** CV-16-1384 for all events, references and prior outcomes.) Petitioner lost the trial on March 14<sup>th</sup>, 2011 in Case Number BA337243 and [was not ordered by the court trial Judge Clifford L. Klien to register for any charge(s)].

On **August 2<sup>nd</sup>, 2011** DDA Brentford J. Ferreira, SBN #113762 Deputy-in-Charge over the Writ of Habeas Corpus Litigation Team had made a Judicial Admission under the penalty of perjury to the trial court on paper by stating Quote: "**{In the instance case, we, have No! Transcripts of the sentencing hearing. None, could be found in the court's file or the District Attorney's file. Nor is there evidence of any minute order reciting an advisement by the court of the registration requirement. There is nothing in the probation report putting Petitioner on Notice of the Registration Requirement}**" as a condition of the July 16<sup>th</sup>, 1996 plea agreement. (**People vs. Trausch** (1995) 36 Cal. App. 4<sup>th</sup> 1239, 1243, 1246.)

On **November 16<sup>th</sup>, 2012** Petitioner, was charged again in **Case No. BA404996** for the same type of alleged violation but the **[charge was dismissed]** on **January 29<sup>th</sup>, 2016** but was then was re-filed after the Statute of Limitation had ran out by three (3) yrs, three (3), month and fifteen (15) days for the re-filed **Case No. BA443387** but not in **Case No BA432281** for the same one charge, which was dismissed.

On or about **January 29<sup>th</sup>, 2016** two (2) differently never seen before charges having been filed after the Statute of Limitations outside of **Pen. Code §804 (c)**; in clear violation of **Penal Code §1009**; there was **No!** Signed Probable Cause Determination (Declaration); although this was a new re-filed Case No #BA443387 from BA404996 the clock to prosecute had began back on November 20<sup>th</sup>, 2012 when the defendant had Originally been wrongfully charged over three (3) years prior, When now the New Felony Complaint on its face indicated that the action was time-barred. The Trial court was [immediately without Jurisdiction to prosecute at all]. (See, The Law Revision Commission's Reference to the Model Pen. Code §1.06 subd (5))

On **March 17<sup>th</sup>, 2016 and April 14<sup>th</sup>, 2016** Petitioner had filed to separate Demurrs to address the Statute of Limitation matter yet at each stage on **March 29<sup>th</sup>, 2016** before the Preliminary Hearing the **First** Demurrer was denied without giving any reason by the Preliminary Hearing Jurist before the Prelim hearing took place that day and again on **June 1<sup>st</sup>, 2016** the **Second** Demurrer was also denied by the trial court Jurist without any reason what so ever on the court records.

On **September 26<sup>th</sup>, 2017** Petitioner was appointed an Ineffective Appellate Counsel on direct appeal by the name of Steven A. Brody, SBN #271616.

Petitioner kept writing to his appointed appellate counsel and telling him that there were **Five (5)** sets of missing court trial transcripts regarding the matters herein and that Petitioner should be entitled to have an *Evidentiary Hearing* on the Judicial Misconduct in itself as required by prior court history when Transcripts are not available. See Case Authorities: (*Blackledge vs. Allison*, (1977) 431 US 63, 71-83; *Harris vs. Nelson*, (1969) 394 US 286; *Townsend vs. Sain* (1963) 372 US 293, 295-322; *US vs. Carter* (4<sup>th</sup> Cir 1972) 454 F.2d 426, 428 and *People vs. Sumstine* (1984) 36 Cal. 3d 909, 920 **[HN 10]**

On **January 30<sup>th</sup>, 2018** Petitioner's Ineffective Appointed Appellate Counsel files an Opening Brief instead of filing a Petition for Writ of Habeas Corpus in the Petitioner's behalf to address the issues.

On **May 7<sup>th</sup>, 2018** Petitioner files a Petition for Writ of Habeas Corpus to be heard concurrently with his appeal and was given a Case No. B283473.

On **May 24<sup>th</sup>, 2018** the Justices of the Second Appellate District Court, denied the Habeas Corpus Petition B289847 without considering it concurrently with the direct appeal which was not heard as of yet

On **June 4<sup>th</sup>, 2018** Petitioner's Petition for Review is granted to be filed in the Supreme Court of California and was given a Case No. S249150.

On **July 11<sup>th</sup>, 2018** the Supreme Court of California, denies the Petition for Review.

On **October 4<sup>th</sup>, 2018** Petitioner, is mailing off this Petition for Writ of Certiorari to the United States Supreme Court in Washington, DC.

## REASONS FOR GRANTING THE PETITION

**Because it would be the right concise act to do in light of the information presented herein.**

“A denial by a State Court of a Writ of Habeas Corpus to one who claims that the judgment under which he is imprisoned was rendered in violation of his Constitutional Rights is review by the Supreme Court of the United States as necessarily involving a Federal Question. State Court’s, equally with Federal Courts, are under an obligation to guard and enforce every right secured by the Federal Question.” *Smith vs. O’Grady* (1941) 312 US 329, 334.

“An accused may have been denied the assistance of counsel under circumstances which constitute an infringement of the United States Constitution. If the State affords No! Mode for redressing that wrong, he may come to the Federal Courts for relief....” *Carter vs. Illinois* (1946) 329 US 173, 174-175 **HN6**.

In *Bowen vs. Johnson* (1939) 306 US 19-30 **HN9, 10** citing: “Ex parte Nielsen (1889) 131 US 176, 183 [33 L. Ed 118, 120, 9 S. Ct. 672] and the remedy of Habeas Corpus may be needed to release the prisoner from a punishment imposed by a court manifestly without Jurisdiction to pass judgment. It **[MUST]** **[n]ever** be forgotten that the Writ of Habeas Corpus is the precious safeguard of personal liberty and there is no higher duty than to maintain it unimpaired. (See, also *In re Bonner* (1894) 151 US 242, 26.)”

Ex parte Lange (1874) 85 US 163, “The rule requiring resort to appellate procedure when the trial court has determined its own jurisdiction of an offense is not a rule denying the power to issue a Writ of Habeas Corpus when it appears that never the less the trial court was without jurisdiction. The rule is not one defining power but one which relates to the appropriate exercise power.” “Throughout the Centuries the Great Writ has been the shield of personal freedom insuring liberty to persons illegally detained. Respecting the state’s grant of a right to test their detention, the Fourteenth Amendment weighs the interest of rich or poor criminals in equal scale, and its hand extends as far to each.” *Smith vs. Bennett* (1961) 365 US 708, 713 **HN9**.

*Miller vs. Pate* (1967) 386 US 1 **N2**, “More than 30 years ago this court held that the Fourteenth Amendment cannot tolerate a State Criminal Conviction obtained by the knowing use of false evidence. *Mooney vs. Holohan* (1935) 294 US 103. There has been **No!** Deviation from that established principle. *Napue vs. Illinois* (1959) 360 US 264; *Pyle vs. Kansas* (1942) 317 US 213; cf. *Alcorta vs. Texas* (1957) 355 US 28. There can be no retreat from that principle here.”

“The United States Supreme Court holds allegation of a pro se complaint to less stringent standards than formal pleadings drafted by lawyers. A complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the Plaintiff can prove No! Set of facts in support of his claim which would entitle him to relief.” “We conclude that he is entitled to an opportunity to offer proof.” *Haines vs. Kerner* (1942) 404 US 519 **HN 1, 2, 3**.

As Chief Justice Burger has written: “[Under] our adversary system an Appellate Court cannot function efficiently without lawyers to present whatever there is to be said on behalf of an appellant, however meager his claims may be, So that the court can make an informal appraisal.” (*Johnson vs. United States* (1966) 360 F. 2d 844, 847 [124 App. D.C. 29] concurring opinion.) Cited In *People vs. Smith*, (1970) 3 Cal. 3d 192.

“The Sixth Amendment Right to Counsel is the right to the effective assistance of counsel.” *McMann vs. Richardson* (1970) 397 US 759, 771 N\*14, 90 S. Ct. 1441, 25 L. Ed. 2d 763

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## **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Daniel B. Williams".

Date: October 4<sup>th</sup>, 2018