

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

ELROY WILLIAM ROBINSON PETITIONER
(Your Name)

VS.

PEOPLE OF THE STATE OF CALIFORNIA RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

COURT OF APPEAL FOURTH APPELLATE DISTRICT DIVISION ONE STATE OF CALIFORNIA
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

ELROY W. ROBINSON (CDCR#AU0346)
(Your Name)

CVSP B4-19-2UP P.O. Box 2349
(Address)

BLYTHE, CA, 92226
(City, State, Zip Code)

- N/A -
(Phone Number)

QUESTION(S) PRESENTED

(1) WHEN A LAW ENFORCEMENT OFFICER DELIBERATELY DELAYS AN ARREST IN ORDER TO BRING A SPOUSE TO BRING A PERSON OF INTEREST IN COMPLIANCE THAT PERSON OF INTEREST EXPERIENCES DURESS AND INDUCEMENT; CAN THE RESULT OF THOSE TWO FACTORS BE TRACED BACK TO LAW ENFORCEMENT OFFICERS AS COERCIVE TACTICS?

(2) WHEN A UNIFORM SERVICE MEMBER IS GIVEN AN ORDER BY HIS COMMANDER, WHETHER DIRECT OR INDIRECT TO TURN HIMSELF IN TO LAW ENFORCEMENT OFFICERS AND GIVE A SELF-INCRIMINATING STATEMENT AND THAT ORDER IS REINFORCED THROUGH THE USE OF AN ESCORT AND SUPERVISION BY A SUPERIOR OFFICER TO ACCOMPLISH IT; CAN IT THEN BE SAID THAT THE ACTIONS OF THE SERVICE MEMBER ARE FREE AND VOLUNTARY?

(3) WITH REGARDS TO QUESTIONS 1 & 2, IF LAW ENFORCEMENT OFFICERS ARE PROVEN TO HAVE NOT VIOLATED THE ALLEGED MIRANDA RIGHTS/WAIVER; CAN A CONFESSION STILL BE ADMISSIBLE AS FREE AND VOLUNTARY?

(4) WHEN COUNSEL PROMISES TO INVESTIGATE A CASE AND FAILS TO DO SO THROUGH POOR PREPARATION AND PRESENTATION OF DEFENSE; DOES NOT HIS ACTIONS CONSTITUTE TO INEFFECTIVE ASSISTANCE OF COUNSEL?

(5) WHEN COUNSEL GIVES HIS CLIENT ERRONEOUS ADVICE TO TAKE A DEAL WITH THE PROSECUTOR TO ASSIST IN THE APPEAL PROCESS AND AFTERWARD ABANDONS HIS CLIENT; DOES NOT HIS ACTIONS CONSTITUTE TO INEFFECTIVE ASSISTANCE OF COUNSEL?

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:

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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 C to the petition and is

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☒ is unpublished.

The opinion of the COURT OF APPEALS STATE OF CALIFORNIA court 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.

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 08-12-2018.
A copy of that decision appears at Appendix C.

☐ 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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

SEE ATTACHED SHEETS.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

(1)

THE FOLLOWING IS A TEST OF VOLUNTARINESS: IS THE CONFESSION THE PRODUCT OF AN ESSENTIALLY FREE AND UNCONSTRAINED CHOICE BY ITS MAKER? IF IT IS, IF HE IS {44B.F. SUPP. 798} WILLED TO CONFESS, IT MAY BE USED AGAINST HIM. IF IT IS NOT, IF HIS WILL HAS BEEN OVERBORNE AND HIS CAPACITY FOR SELF-DETERMINATION CRITICALLY IMPAIRED, THE USE OF HIS CONFESSION OFFENDS DUE PROCESS [CITES OMITTED]. THE LINE OF DISTINCTION IS THAT AT WHICH GOVERNING SELF-DIRECTION IS LOST AND COMPULSION, OF WHATEVER NATURE OR WHOEVER INFUSED, PROPELS OR HELP PROPEL THE CONFESSION.

THE 14TH AMENDMENT AND CAL. CONST. ARTICLE 1, SECTION 7, MAKE INADMISSIBLE ANY INVOLUNTARY STATEMENT OBTAINED BY LAW ENFORCEMENT OFFICER FROM A CRIMINAL SUSPECT BY COERCION. THE PROSECUTOR MUST PROVE BY A PREPONDERANCE OF THE EVIDENCE THAT A DEFENDANT FREELY AND VOLUNTARILY GAVE POLICE STATEMENTS BEFORE STATEMENTS CAN BE ADMITTED.

VOLUNTARINESS DOES NOT TURN ON ANY FACT, NO MATTER HOW APPARENTLY SIGNIFICANT, BUT RATHER ON THE TOTALITY OF CIRCUMSTANCES. THE TEST INCLUDE ANY ELEMENT OF POLICE COERCION, THE LENGTH OF THE INTERROGATION AND ITS LOCATION AND CONTINUITY, AND DEFENDANT'S MATURITY, EDUCATION, AND PHYSICAL AND MENTAL HEALTH.

THE TRUTHFULNESS OF AN INVOLUNTARY CONFESSION IS OF COURSE HIGHLY SUSPECT. BUT EVEN IF THE TRUTHFULNESS OF AN INVOLUNTARY CONFESSION IS SHOWN, A CONVICTION BASED ON IT CAN NOT STAND IF "METHODS USED TO EXTRACT [THE CONFESSION] OFFEND AN

1 UNDERLYING PRINCIPLE IN THE ENFORCEMENT OF OUR CRIMINAL LAW:
2 THAT OURS IS AN ACCUSATORIAL AND NOT AN INQUISITORIAL SYSTEM-
3 A SYSTEM IN WHICH THE STATE MUST ESTABLISH GUILT BY EVIDENCE
4 INDEPENDENTLY AND FREE SECURED AND MAY NOT BY COERCION PROVE
5 ITS CHARGE AGAINST AN ACCUSED OUT OF HIS OWN MOUTH." ROGERS
6 V. RICHMOND, 365 U.S. 534, 541, 81 Sct. 735, 5 LEd 2d 760 (1961). ALSO
7 UNDER THE 5TH AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES,
8 ONE WHO IS ACCUSED OF A CRIME HAS THE PRIVILEGE AGAINST SELF-
9 INCRIMINATION (CRIM. LAW SEC. 349). HE OR SHE CAN REFUSE TO ANSWER
10 QUESTIONS THAT WILL OR TEND TO BE INCRIMINATING. (STATE V.
11 CDANDOWICZ, 69 NTL 619, 55A 743, BALLENTINE'S LAW DICTIONARY 3RD ED.).

12 (2)

13 THE EXPANDED DEFINITION OF DURESS INCLUDES WHATEVER
14 DESTROYS A PERSON'S FREE AGENCY AND CONSTRAINS THAT PERSON
15 TO DO SOMETHING AGAINST HIS OR HER WILL (IN RE BALTINS (1989) 212
16 Cal. app. 3d 66 84, 260 Cal. Rptr 403). DURESS MAY BE EXERCISE BY
17 THREATS, IMPORTUNITY, OR ANY SPECIES OF MENTAL COERCION
18 (IN RE. MARRIAGE OF GONZALEZ (1976) 57 Cal. app. 3d 736, 744 129 Cal.
19 Rptr. 566). DURESS EXIST IF ONE PARTY INTENTIONALLY USED
20 THREATS OR PRESSURE TO INDUCE ACTION OR NON ACTION TO THE
21 THIRD PARTY'S DETRIMENT AND THE COERCED PARTY WAS THEREBY
22 INDUCED TO ASSENT AND HAD NO REASONABLE ALTERNATIVE.
23 DURESS IS EITHER DIRECT OR IMPLIED (VOL. 17 CHAP 215 SECT. 215.21
24 PART II LEGAL BACKGROUND DURESS).

25 ALSO IN SECTION 214.40, UNDUE INFLUENCE DEFINES
26 THE USE BY ANYONE IN WHOM CONFIDENCE IS REPOSED BY ANOTHER
27 OR WHO HOLDS A REAL OR APPARENT AUTHORITY OVER ANOTHER,
28 OF SUCH CONFIDENCE OR AUTHORITY FOR THE PURPOSE OF

4.

PETITION FOR WRIT OF CERTIORARI

1 OBTAINING AN UNFAIR ADVANTAGE OF THE PERSON; THE PERSON
2 TAKING ADVANTAGE OF OTHERS' WEAKNESS OF MIND; OR TAKING A
3 GROSSLY OPPRESSIVE AND UNFAIR ADVANTAGE OF ANOTHERS'
4 NECESSITIES OR DISTRESS.

5 THE STATUTORY DEFINITION IS NOT DISPOSITIVE. THE TRIER
6 OF FACTS MUST DECIDE FROM THE ENTIRE CONTEXT IF A PERSON'S
7 WILL WAS OVERBORN, AND IF HE OR SHE WAS INDUCED TO DO OR
8 FORBEAR FROM DOING AN ACT THAT HE OR SHE WOULD NOT DO,
9 OR WOULD DO IF ACTED FREELY (KIEHLEY V. CIVIL SERVICE Bd. (1970)
10 11 Cal. App. 3d 443, 451, 89 Cal. Rptr. 809, STEWART V. MARVIN (1956)
11 139 Cal. App. 2d 769, 775).

12 IN REGARDS TO SERVICE MEMBERS, THE UNIFORM CODE OF
13 MILITARY JUSTICE (UCMJ) STATES THAT "NO PERSON SUBJECTED TO
14 (10 USCS SECT. 801 et seq) MAY COMPEL ANY PERSON TO INCRIMINATE
15 HIMSELF OR TO ANSWER ANY QUESTIONS THAT TENDS TO INCRIMINATE
16 HIM. NO PERSON MAY INTERROGATE, OR REQUEST ANY STATEMENT
17 FROM AN ACCUSED OR A PERSON SUSPECTED OF AN OFFENSE WITHOUT
18 FIRST INFORMING HIM OF THE NATURE OF THE ACCUSATION AND
19 ADVISING HIM THAT HE DOES NOT HAVE TO MAKE ANY STATEMENT
20 REGARDING THE OFFENSE OF WHICH HE'S ACCUSED AS EVIDENCE
21 AGAINST HIM IN A TRIAL BY COURT-MARTIAL. NO STATEMENT OBTAIN
22 FROM ANY PERSON IN VIOLATION OF THIS ARTICLE OR THROUGH THE
23 USE OF COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL
24 INDUCEMENT MAY BE RECEIVED AS EVIDENCE AGAINST HIM IN
25 A TRIAL BY COURT MARTIAL." (TITLE 10 USCS SECT 801 CHAP 47 UCMJ
26 SECT 831 ARTICLE 31). SECTION 890 ART. 90 STATES THAT ANY PERSON
27 WHO WILLFULLY DISOBEYS A LAWFUL COMMAND OF HIS SUPERIOR
28 COMMISSIONED OFFICER, SHALL BE PUNISHED. IN SECT. 890 ART. 92

1 IT ALSO STATES THAT ANY PERSON WHO FAILS TO OBEY ANY LAWFUL
2 GENERAL ORDER OR REGULATION, SHALL BE PUNISHED AS COURT-
3 MARTIAL DIRECTS. (CHAP 47 UCMJ SUB CHAP X SECT 890 ART. 90 & 92 (2)).

4 (3)

5 BEFORE A CRIMINAL DEFENDANT'S STATEMENTS CAN BE USED
6 AGAINST HIM, THE GOVERNMENT MUST PROVE ITS VOLUNTARINESS BY
7 A PREPONDERANCE OF THE EVIDENCE. (SEE UNITED STATES V GUERRERO,
8 847 F.2d 1363 (9th Cir. 1988)). AN INCULCATORY STATEMENT IS VOLUNTARY
9 ONLY WHEN IT IS THE PRODUCT OF A RATIONAL INTELLECT AND A FREE
10 WILL (BLACKBURN V. ALABAMA, 361 U.S. 199, 208 (1960)). THE TEST IS
11 WHETHER, CONSIDERING THE TOTALITY OF CIRCUMSTANCES THE GOVERNMENT
12 OBTAINED THE STATEMENT BY PHYSICAL OR PSYCHOLOGICAL COERCION
13 OR BY IMPROPER INDUCEMENT SO THAT THE SUSPECT'S WILL WAS
14 OVERBORNE (HAYNES V. WASHINGTON, 37 U.S. 503 (1963)). IMPROPER
15 INDUCEMENT INCLUDES DIRECT OR IMPLIED PROMISES WHICH ARE
16 SUFFICIENTLY COMPELLING TO OVERBEAR THE SUSPECTS IN LIGHT OF
17 ALL ATTENDANT CIRCUMSTANCES. (VOL 17 CHAP 214 SECT. 214.40 UNLAWFUL
18 INFLUENCES DEFINED).

19 (4)

20 NELSON V. HARGETT (5th CIR. 1993) STATES THAT A DEFENDANT
21 WHO ALLEGES A FAILURE TO INVESTIGATE ON THE PART OF HIS COUNSEL
22 MUST ALLEGE WITH SPECIFICITY WHAT THE INVESTIGATION WOULD HAVE
23 REVEALED AND HOW IT WOULD HAVE ALTERED THE OUTCOME OF THE TRIAL.

24 BOBBY V. DIXON (2011) U.S. 132 S.Ct 26 ESTABLISHED THAT
25 PRIOR CONFESSION WITHOUT MIRANDA WARNINGS DOES NOT TAINT POST
26 WARNINGS CONFESSION UNLESS IT IS SHOWN THAT OFFICERS DELIBERATELY
27 DECIDED TO INTERROGATE DEFENDANT WITHOUT WARNING IN ORDER
28 TO COERCE DEFENDANT TO MAKE SIMILAR STATEMENTS AFTER WARNINGS.

1 IF AN INDIVIDUAL'S "WILL WAS OVERBORNE" OR IF HIS CONFESSION
2 WAS NOT "THE PRODUCT OF A RATIONAL INTELLECT AND FREE WILL,"
3 HIS CONFESSION IS INADMISSIBLE BECAUSE OF COERCION. THESE STANDARDS
4 ARE APPLICABLE WHETHER A CONFESSION IS THE PRODUCT OF
5 PHYSICAL OR INTIMIDATION OR PSYCHOLOGICAL PRESSURE. AN
6 INVOLUNTARY CONFESSION IS NOT EVIDENCE AND CANNOT BE
7 CONSIDERED BY JURY (PEOPLE V. MEHAFFEY, 32 CAL 2D 535, 548).
8 SIMPLY PUT, AN INVOLUNTARY CONFESSION IS NO CONFESSION. A
9 CONFESSION WHICH IS GIVEN AS THE RESULT OF EITHER THREATS OR
10 INDUCEMENTS MUST BE ENTIRELY DISREGARDED IN A COURT OF
11 LAW (PEOPLE V. JONES, SUPRA, PEOPLE V. WILLIAMS 20 CAL. 2D 273).

12 (5)

13 THE PLEA^{DING} AND PLEA BARGAINING STAGE OF A CRIMINAL
14 PROCEEDING IS A CRITICAL STAGE IN THE CRIMINAL PROCESS AT WHICH
15 A DEFENDANT IS ENTITLED TO EFFECTIVE ASSISTANCE OF COUNSELLING
16 GUARANTEED BY FEDERAL AND CALIFORNIA CONSTITUTION (HILL V.
17 LOCKHART 1985).

18 IT IS WELL ESTABLISHED THAT WHERE INEFFECTIVE ASSISTANCE
19 OF COUNSEL RESULTS IN A DEFENDANT'S DECISION TO PLEAD GUILTY, THE
20 DEFENDANT HAS SUFFERED A CONSTITUTIONAL VIOLATION GIVING RISE TO
21 A CLAIM FOR RELIEF FROM GUILTY PLEA (HILL V. LOCKHART, SUPRA 474
22 U.S. AT PP. 50-60).

23 THE SIXTH AMENDMENT OF THE UNITED STATES CONSTITUTION
24 PROVIDES THAT AN ACCUSED IN CRIMINAL PROSECUTION HAS A RIGHT
25 TO THE ASSISTANCE OF COUNSEL FOR HIS DEFENSE. BECAUSE THIS RIGHT TO
26 COUNSEL IS CRITICAL TO THE ABILITY OF THE ADVERSARIAL SYSTEM TO
27 PRODUCE JUST RESULTS, "THE RIGHT TO COUNSEL IS THE RIGHT TO
28 EFFECTIVE COUNSEL." (STRICKLAND V. WASHINGTON 1984).

1 THE BENCHMARK FOR JUDGING INEFFECTIVE CLAIMS ARE, "WHETHER
2 COUNSELS' CONDUCT SO UNDERMINE THE PROPER FUNCTIONING OF
3 THE ADVERSARIAL PROCESS THAT THE TRIAL COURT CAN NOT BE
4 RELIED ON AS HAVING PRODUCED A JUST RESULT." *Id.*

5 A DEFENDANT WHO REQUEST REVERSAL OF A CONVICTION DUE TO
6 HIS COUNSELS' DEFECTIVE ASSISTANCE MUST SHOW FIRST THAT HIS
7 ATTORNEYS' PERFORMANCE WAS DEFICIENT AND SECOND THAT THE
8 DEFICIENT PERFORMANCE PREJUDICE HIS DEFENSE. *Id.* at p. 687.

9 UNDER THE FIRST REQUIREMENT THE DEFENDANT MUST SHOW
10 THAT HIS ATTORNEY'S REPRESENTATION FEEL BELOW AN OBJECTIVE
11 STANDARD OF REASONABLENESS. *Id.* at p. 688. THE STANDARD OF ATTORNEY'S
12 PERFORMANCE IS "REASONABLENESS UNDER PREVAILING PROFESSIONAL
13 NORMS." *Id.* at p. 688.

14 THE SECOND COMPONENT OF AN INEFFECTIVE CLAIM REQUIRES
15 THE DEFENDANT TO SHOW PREJUDICE. *Id.* p. 693: "THE DEFENDANT
16 MUST SHOW THAT THERE IS A REASONABLE PROBABILITY THAT, BUT FOR
17 COUNSELS' UNPROFESSIONAL ERRORS, THE RESULT OF THE PROCEEDINGS
18 WOULD HAVE BEEN DIFFERENT. A REASONABLE PROBABILITY IS A
19 PROBABILITY SUFFICIENT TO UNDERMINE CONFIDENCE IN THE OUTCOME."
20 *Id.* at p. 694.

21 WHEN A PERSON PLEADS GUILTY BASED ON THE ADVICE OF
22 COUNSEL, "THE VOLUNTARINESS OF THE PLEA DEAL DEPENDS ON WHETHER
23 COUNSELS' ADVICE WAS WITHIN RANGE OF COMPETENCE DEMANDED OF
24 ATTORNEYS IN CRIMINAL CASES." (HILL V. LOCKHART 1985).

25 THE TWO-PART TEST OF INEFFECTIVE ASSISTANCE IN STRICKLAND V.
26 WASHINGTON, SUPRA, APPEALS TO CHALLENGES OF GUILTY PLEAS BASED
27 INEFFECTIVE ASSISTANCE. HILL at p. 58. "[I]N ORDER TO SATISFY THE
28 "PREJUDICE REQUIREMENT, THE DEFENDANT MUST SHOW THAT THERE IS A

STATEMENT OF THE CASE

SEE ATTACHED SHEETS

STATEMENT OF THE CASE

(1)

(A) THE ALLEGATIONS

ON AUGUST 28, 2013, WHILE EMPLOYED BY THE U.S. NAVY AND STATIONED ON THE U.S.S. WAYNE E. MEYER (DDG-108), MY WIFE KHALILAH MARIN-ROBINSON LEFT A MESSAGE ON MY CELL PHONE - SAYING ITS URGENT THAT I CALL HER. WHEN I CALLED MY WIFE TO FIND OUT THE REASON FOR THE MESSAGE, SHE TOLD ME THAT I MUST COME HOME BECAUSE THE POLICE HAD TAKEN THE CHILDREN. I IMMEDIATELY LEFT WORK AND WENT HOME AS SHE ASKED.

UPON ARRIVING HOME KHALILAH TOLD ME THAT THE REASON WHY THE CHILDREN WERE TAKEN BY THE POLICE IS BECAUSE CHARYKHA C. GALVEZ, MY THEN STEP-DAUGHTER MADE A SEXUAL ABUSE COMPLAINT AGAINST ME TO THE POLICE.

(B)

ARRANGEMENT BETWEEN DETECTIVE SHEPARD AND KHALILAH TO BRING ME IN.

KHALILAH THEN TOLD ME SHE WAS IN COMMUNICATION DETECTIVE SHEPARD. SHE FURTHER SAID THAT HE NEEDED TO SPEAK WITH BOTH OF US AND THAT HE MADE AN APPOINTMENT WITH HER FOR 8:30 AM THE FOLLOWING MORNING. SINCE IT WAS NEVER MY INTENTIONS TO GO IN AND SPEAK WITH ANYONE, I ASKED MY WIFE IF SHE WAS SURE DETECTIVE SHEPARD WANTED TO SPEAK WITH ME SPECIFICALLY? SHE (CONFIRMED) YES, EMPHASIZING THAT IT WAS IMPORTANT THAT THE BOTH OF US GO IN TO SEE DETECTIVE SHEPARD.

1 (C) THE REASON I AGREED TO GO IN

2
3 BEING CONVINCED THAT THE COMMAND WAS DIRECTED BY
4 DETECTIVE SHEPHARD - HIM BEING A LAW ENFORCEMENT
5 OFFICER WITH CERTAIN AUTHORITIES, I FELT LIKE I HAD NO
6 CHOICE BUT TO RESPOND IN COMPLIANCE. IT WAS IN THIS
7 COMPLIANT ATTITUDE THAT I AGREED TO ACCOMPANY
8 KHALILAH TO THE INTERVIEW. SHE ALSO CONVINCED ME THAT
9 I SHOULD DISCLOSE THE MATTER TO MY COMMANDING OFFICER,
10 COMMANDER WILLIAM H. BAXTER PRIOR TO SPEAKING WITH DETEC-
11 TIVE SHEPHARD - TO WHICH I ALSO COMPLIED.

12 (2)

13 (A) ATTEMPT TO DISCLOSE INFORMATION

14
15 ON AUGUST 29, 2013, WHILE ACTING UNDER THE
16 DIRECTIONS OF MY WIFE KHALILAH MARIN-ROBINSON, I WENT
17 TO MY COMMAND SHIP TO SPEAK WITH COMMANDER WILLIAM
18 H. BAXTER. I ENTERED HIS CABIN AROUND 0715 AND BEGAN
19 DISCLOSING THE MATTER IN REGARDS TO THE ALLEGATIONS AND
20 THAT I MUST GO IN AND SPEAK WITH THE POLICE. HOWEVER,
21 BEFORE I COULD GET INTO DETAILS COMMANDER BAXTER
22 STOPPED ME AND COMMANDED THAT I DO INDEED GO TO THE
23 POLICE AND DISCUSS THE MATTER WITH THEM.

24
25 (B) COMMAND TO ENSURE CONFESSION

26
27 COMMANDER BAXTER THEN CALLED MY DEPARTMENT HEAD
28 LIEUTENANT FRANCISCO X. GARZA TO HIS CABIN AND GAVE

1 HIM AN ORDER TO ACCOMPANY ME TO THE STATION HOUSE
2 AND BRING BACK A REPORT. LIEUTENANT GARZA OBEYED
3 THE COMMAND FROM COMMANDER BAXTER AND ACCOMPANIED
4 ME TO THE STATION HOUSE, SAT THROUGH MY ENTIRE
5 INTERVIEW, AND TOOK A REPORT BACK TO COMMANDER
6 BAXTER.

7 (3)

8 (A) INTERVIEW WITH DETECTIVE SHEPHARD

9
10 THOUGHT DETECTIVE SHEPHARD BEGAN THE INTERVIEW BY
11 TELLING ME I WAS NOT UNDER ARREST - I WAS FREE TO
12 LEAVE; I NEVER FELT FREE - THE DOOR BEING CLOSED. I
13 INITIALLY TRIED TO AVOID ANSWERING DETECTIVE SHEPHARD'S
14 QUESTION AS TO THE REASON FOR COMING IN; HOWEVER,
15 WHEN HE FLEXED HIS POWER AND AUTHORITY THROUGH
16 INTIMIDATING STATEMENTS LIKE, "YOU DARN WELL KNOW WHY
17 YOU'RE SITTING HERE RIGHT NOW TALKING TO ME; AND ITS
18 NOT BECAUSE OF YOU HITTING THE KIDS. SO HERE'S WHAT, I'M
19 GONNA ASK YOU ONE MORE TIME TO BE CLEAR. LET'S NOT
20 BEAT AROUND THE BUSH AND WASTE MY TIME." FOR FEAR
21 OF HIM AND FOR THE PRESENCE OF MY SUPERIOR OFFICER,
22 LIEUTENANT GARZA, I TOLD HIM WHAT HE WANTED TO HEAR.
23 IN FACT THROUGHTOUT THE INTERVIEW I REPEATEDLY TRIED TO
24 AVOID ANSWERING HIS QUESTIONS. BUT EACH TIME HE SHOWED
25 ME WHO WAS IN CONTROL. I FELT LIKE HE WAS SHAPING
26 THE OUTCOME OF THE INTERVIEW BECAUSE EVERYTIME HE
27 WANTED TO HEAR SOMETHING SPECIFIC, HE WOULD SAY SOMETHING
28 LIKE, "I ALSO THINK THAT THIS ONE THING ABOUT YOUR STORY

DOES NOT MATCH UP WITH WHAT CHARYKHA IS REPORTING. " THIS COACHING MADE ME FEEL VERY SUBJECTIVE TO HIM- ESPECIALLY WHEN HE MADE THREATS LIKE; " YOU DIDNT LET IT ALL OUT. THIS IS YOUR LAST CHANCE RIGHT NOW... IF YOU THINK THAT THERE'S SOMETHING MAJOR ELSE THAT'S GOING TO HAPPEN BECAUSE YOU DID THAT, THATS NOT THE CASE. I MEAN IT IS WHAT IT IS." (INTERROGATION 08-29-13).

IT WAS ONLY AFTER DETECTIVE SHEPHARD GOT THE INFORMATION HE WANTED, THAT HE READ ME MY MIRANDA RIGHTS AND HAD ME CONFIRM MY PRIOR STATEMENT. I WAS THEN ARRESTED AND TAKEN TO THE SAN DIEGO CENTRAL JAIL FOR BOOKING AND PROCESSING.

(4)

(A) ATTORNEY MADISON IAC DURING PRE-LIM

IN THE MONTHS LEADING UP TO MY PRELIMINARY HEARING, ATTORNEY MADISON GAVE ME HIS WORD THAT AS PART OF HIS PREPARATION HE WOULD CONDUCT A THOROUGH INVESTIGATION - WHICH INCLUDED INTERVIEWS WITH KHALILAH, COMMANDER BAXTER, AND DETECTIVE SHEPHARD. HOWEVER, HE DID NOT FOLLOW THROUGH WITH HIS PROMISES BUT DECIDED TO RELY SOLELY ON DETECTIVE SHEPHARD'S VIOLATION OF MY MIRANDA RIGHTS/WAIVER. HIS FAILURE TO FURTHER INVESTIGATE RESULTED IN A POOR PREPARATION AND PRESENTATION OF MY MOTION TO SUPPRESS CONFESSION - WHICH CONSEQUENTLY RESULTED IN A DENIAL OF THE MOTION.

(5)

(A) ATTORNEY MADISON (IAC) DURING PLEA BARGAIN

IMMEDIATELY AFTER MY MOTION TO SUPPRESS
CONFESSION WAS DENIED, ATTORNEY MADISON ADVISED
ME TO TAKE A DEAL. WHEN I REJECTED THE OFFER AND
ASKED HIM TO HELP ME CHALLENGE THE JUDGE'S RULE
ON MY DENIED MOTION, HE TOLD ME IF I TAKE THE
DEAL HE WOULD HELP ME IN THE APPEAL PROCESS.
I TOOK THE DEAL AND WAS SENTENCED TO 30 YEARS IN
PRISON. WHEN I REACHED OUT TO ATTORNEY MADISON
ABOUT A PATH TOWARD THE APPEAL, HE TOLD ME HE
COULD NOT HELP ME AND THAT I WOULD HAVE TO FIGURE
IT OUT ON MY OWN. AFTER GIVING ME ERRONEOUS ADVICE
HE ABANDONED ME.

REASONS FOR GRANTING THE PETITION

SEE ATTACHED SHEETS

REASONS FOR GRANTING PETITION

(1)

I BELIEVE THE WAY DETECTIVE SHEPHARD HANDLED MY CASE IS NOT UNLIKE OTHER MISHANDLED CASES. FOR INSTANCE: IN RECENT EVENTS, EVEN JUDGE BRETT KAVANAUGH AND THE SENATE JUDICIARY COMMITTEE AGREED THAT WHEN A CRIMINAL COMPLAINT IS BROUGHT AGAINST AN INDIVIDUAL (HAVING EXPERIENCE IT HIMSELF) AND THERE IS A DELIBERATE DELAY IN JUDICIAL PROCEEDINGS IN ORDER TO GAIN AN ADVANTAGE, THE PROCESS IN ITSELF IS INCONSISTENT WITH THE FAIRNESS OF THE JUSTICE SYSTEM.

SO IT WAS IN MY CASE. ALLEGATIONS ^{THAT} WERE BROUGHT TO DETECTIVE SHEPHARD AGAINST ME WERE SUFFICIENT ENOUGH TO MAKE AN IMMEDIATE ARREST AND BEGIN DUE PROCESS. HOWEVER, HE DELIBERATELY PUT OFF THAT PROCESS IN ORDER TO BAIT ME INTO COMING IN AND GIVING A STATEMENT BY ANY MEANS.

JUDGE KAVANAUGH UNDERSTOOD THE UNDERMINING TACTICS THAT WERE BEING USED AGAINST HIM FOR HIS HURT AND HE OPPOSED IT. I TOO HAVE COME TO UNDERSTAND DETECTIVE SHEPHARD'S COERCIVE TACTICS USED TO CIRCUMVENT MY CONSTITUTIONAL GUARANTEES IN ORDER TO PROCURE AN INVOLUNTARY CONFESSION (FIFTH AND FOURTEENTH AMENDMENTS).

IT CANNOT BE SAID THAT A CONFESSION IS FREE AND VOLUNTARY IF THE MEANS OF OBTAINING THAT CONFESSION IS TO EXCITE DURESS AND IMPROPER INDUCEMENT THROUGH A THIRD PARTY. HERE, DETECTIVE SHEPHARD MADE AN APPOINT-

1 MENT WITH MY WIFE AND TOLD ME THROUGH HER THAT I MUST
2 COME IN AND SPEAK WITH HIM. (SEE IN RE MARRIAGE OF BALTIM
3 (1989) 212 Cal. app. 3d 66, 84, 260 Cal. Rptr 403; IN RE MARRIAGE
4 OF GONZALEZ (1976) 57 Cal. app. 3d 736, 744 129 Cal Rptr 566).

5 EVEN IF THE LOWER COURTS COULD ARGUE THAT I WAS
6 IN THE RIGHT FRAME OF MIND WHEN QUESTIONED (MEASURED BY
7 DETECTIVE WHEN HE VERIFIED MY AGE, SEX, STATE OF HEALTH AND
8 MENTAL CHARACTERISTICS), THE CONFESSION STILL COULD NOT STAND
9 SEEING IT WAS THE RESULT OF PSYCHOLOGICAL DURESS - WHICH
10 PRIMARILY AFFECTS THE STATE OF MIND. IN PROVING DURESS,
11 THERE IS NO OBJECTIVE LEGAL STANDARD OF RESISTANCE WITH WHICH
12 THE PERSON ACTED ON MUST COMPLY. RATHER, THE TEST FOR
13 PROVING DURESS IS SUBJECTIVE (SEE LEWIS V. FAHN (1952) 113 Cal.
14 app. 2d 95 99-100-247 p 2d 831). THE DETERMINATION IN EACH
15 CASE IS WHETHER OR NOT THE THREATENED PERSON WAS DEFEAT
16 OF THE FREE WILL. THE DETERMINATION IS NOT MEASURED BY THE
17 NATURE OF THE THREATS BUT BY THE STATE OF MIND INDUCED IN
18 THE VICTIM. THIS WAS MY EXPERIENCE AND A REASON WHY YOU SHOULD
19 CONSIDER MY PETITION.

20 (2)

21 THE MOST SIGNIFICANT REASON I BELIEVE YOU SHOULD
22 GRANT MY PETITION IS DUE TO CONFLICTING AUTHORITIES. IF
23 IT IS UNDERSTOOD THAT, TO MAKE A CONFESSION VOLUNTARY,
24 THE PARTICIPANT MUST BE FREE OF ANY UNDUE INFLUENCES
25 THAT WOULD OVERBORNE HIS OR HER ~~IN~~ FREE WILL OR ALTER HIS
26 OR HER INTENDED ACTIONS OR LACK THEREOF, THEN IT IS ALSO
27 UNDERSTOOD THAT THE PARTICIPANT IS TO HAVE COMPLETE
28 AUTHORITY OVER HIS OR HER ACTIONS. THIS WAS NOT SO IN MY

16.

PETITION FOR WRIT OF CERTIORARI

1 CASE; COMMANDER BAXTER WAS MY COMMANDING OFFICER AND
2 HIS AUTHORITY WAS HIGHER THAN MINE. HE WAS GIVEN SURFACE
3 INFORMATION ABOUT THE ALLEGATIONS BROUGHT AGAINST ME.
4 UPON RECEIPT, HE UTILIZED HIS AUTHORITY TO SHAPE A ONE-
5 WAY OUTCOME THAT PARALYZED MY AUTHORITY IN THE MATTER.
6 (SEE KIETHLEY V. CIVIL SERVICE Bd. (1970) 11 CAL. APP. 3D 443 451
7 89 CAL. RPT. 809).

8 I BELIEVE THESE TWO AUTHORITIES ARE INDEED CONTRARY
9 TO ONE ANOTHER. ON THE ONE HAND, TO MAKE CONFESSION FREE
10 AND VOLUNTARY, I MUST HAVE COMPLETE AUTHORITY TO
11 CONTROL THE OUTCOME; ON THE OTHER HAND, WHEN A
12 HIGHER AUTHORITY IS PRESENT, THE LOWER AUTHORITY
13 SUCCUMBS AND THE RESULT IS UNDELY INFLUENCED
14 IN FAVOR OF THE HIGHER. (SEE HAYNES V. WASHINGTON, 37 U.S. 503
15 (1963)).

16 THOUGH I AGREED TO TALK WITH COMMANDER BAXTER
17 UNDER THE PREVAILING CIRCUMSTANCES - DURESS FROM KHALILAH,
18 I DID NOT ANTICIPATED THAT COMMANDER BAXTER WOULD
19 GIVE AN ORDER TO LIEUTENANT GARZA TO SEE IT THROUGH.
20 AS A NAVAL OFFICER I WAS SUBJECTED TO THE UNIFORM CODE
21 OF MILITARY JUSTICE; FURTHER MORE, AS A NAVAL OFFICER
22 IN A JUNIOR POSITION, I UNDERSTOOD THAT A COMMAND
23 GIVEN TO LIEUTENANT GARZA WAS A COMMAND TO ME AS
24 WELL. THEREFORE I HAD NO CHOICE IN THE MATTER FROM THAT
25 POINT FORWARD.

26 IN TRUTH, COMMANDER BAXTER'S ORDER ONLY CEMENT-
27 ED ANY AND ALL ACTIONS I MAY OR MAY NOT HAVE COMMITTED
28 TO REGARD LESS OF MY EXPRESSED INTENTIONS PRIOR. MY

ACTIONS ARE THE CAUSE OF THE DURESS AND IMPROPER INDUCEMENT, THEN EVEN IF THE LOWER COURTS WERE TO UPHOLD HIS INTERVIEWING TECHNIQUES THE CONFESSION STILL COULD NOT BE VOLUNTARY IF IT WAS THE PRODUCT OF COERCION. (SEE UNITED STATES V. LEON GUERRERO, 847 F.2d 1363 (9th Cir. 1988), STEWART V. MARTIN (1956) 139 Cal. app. 2d 769, 775, BLACKBURN V. ALABAMA, 361 U.S. 199, 208 (1960).

(4)

THE COURT SHOULD TAKE NOTE OF ATTORNEY MADISON'S NEGLIGENCE IN HIS PERFORMANCE. HE PROMISED TO CONDUCTED A FULL INVESTIGATION AS AN EFFORT TO PREPARE FOR PRE-LIM. HE PROMISED TO INTERVIEW KHALILAH, COMMANDER BAXTER, AND DETECTIVE SHEPARD; HOWEVER HE DID NONE OF THESE THINGS. HE INSTEAD RELIED ON ALREADY PROVIDED INFORMATION ON MY MIRANDA VIOLATION. BECAUSE ATTORNEY MADISON FAILED TO FURTHER INVESTIGATE THE TOTALITY OF CIRCUMSTANCES, HIS PREPARATION OF MY MOTION TO SUPPRESS CONFESSIONS LACKED THE SPECIFIC INTENT OF EVENTS. HIS FAILURE TO FURTHER INVESTIGATE RESULTED IN A POOR PRESENTATION OF MY MOTION THAT WAS CONSEQUENTLY DENIED. (SEE HILL V. LOCKHART (1985), UNITED STATES V. GRAY (1989), UNITED STATES V. MOONEY (4th Cir. 2007), NELSON V. HARGETT (5th Cir. 1993), BOBBY V. DIXON (2011) U.S. 132 SOT 26, PEOPLE V. MEHAFFEY, 32 Cal 2d 535, 548, PEOPLE V. JONES, SUPRA, PEOPLE V. WILLIAMS 20 Cal. 2d 273). THE COURT SHOULD CONSIDER MY PETITION ON THE ACCOUNT OF INEFFECTIVE ASSISTANCE OF COUNSEL.

(5)

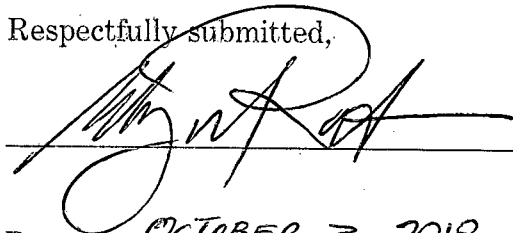
ATTORNEY MADISON, DURING PLEA BARGAINING ALSO GAVE

1 ME ERRONEOUS ADVICE. HE ADVISED ME TO TAKE A DEAL AS
2 OPPOSED TO GOING TO TRIAL. I INITIALLY REJECTED THE OFFER
3 AND ASK HIM TO HELP ME CHALLENGE THE JUDGE'S RULE ON MY
4 MOTION TO SUPPRESS CONFESSION. HE THEN PROMISED TO ASSIST
5 ME IN THE APPEAL PROCESS IN RETURN FOR TAKING THE
6 DEAL. I LISTENED TO HIM, TOOK THE DEAL AND WAS SENTENCED
7 TO 30 YEARS IN PRISON. WHEN I CALLED HIM TO BEGIN THAT
8 PROCESS HE TOLD ME HE COULDN'T HELP ME AND THAT
9 I WOULD HAVE TO FIGURE IT OUT ON MY OWN. HE
10 ABANDONED ME. HIS PERFORMANCE WAS LESS THAN PAR AND
11 THEREFORE CONSTITUTE TO INEFFECTIVE ASSISTANCE OF COUNSEL
12 (SEE STRICKLAND V. WASHINGTON (1984), WEGGINS V. SMITH (2003),
13 ROMPILLA V. BEARD (2005), KIMMELMAN V. MORRISON (1986),
14 PEOPLE V. AGUIRRE (2011), MOORE V. BRYANT (2003) 7TH CIR,
15 STATE V. MARTINEZ (WASH. APP 2011), MAGANA V. HOFBAUER
16 (6TH CIR. 2001). THEREFORE THE COURT SHOULD GRANT MY PETITION
17 FOR THE ^{ABOVE} FOLLOWING REASONS.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "J. W. R.", written over a horizontal line.

Date: OCTOBER 3, 2018