

18-7223  
No.

ORIGINAL

IN THE  
SUPREME COURT OF THE UNITED STATES

FILED  
DEC 19 2018  
OFFICE OF THE CLERK  
SUPREME COURT, U.S.

JESSE LLOYD HALL — PETITIONER  
(Your Name)

vs.

DANIEL PARAMO, Warden — RESPONDENT(S)  
R.J. Donovan Correctional Facility

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

JESSE LLOYD HALL

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ORIGINAL

QUESTION(S) PRESENTED

A. IF THE STANDARD UNDER BAREFOOT V. ESTELLE, 463 U.S. 893 (1983) FOR PRELIMINARY REVIEW OF A STATE WRIT PETITION REQUIRES THE ALLEGATIONS OF THE PETITION "TO BE TAKEN AS TRUE" IS IT NOT ENCUMBANT ON FEDERAL COURTS TO DO SO AS WELL IN WEIGHING WHETHER THE STATE'S DENIAL WAS "OBJECTIVELY UNREASONABLE?" [28 U.S.C. : 2254]

B. IS IT RECANTATION WHEN A FIFTEEN YEAR OLD ALLEGED VICTIM REPORTS TO THE PROSECUTOR POLICE MISCONDUCT, SUBORNATION OF PERJURY, WITNESS INTIMIDATION AND OTHER CRIMES RESULTING IN A COERCED AND FABRICATED VICTIM STATEMENT PRIOR TO HER TESTIFYING?

C. IS A FIFTEEN YEAR OLD FEMALE ALLEGED VICTIM DENYING SHE IS A VICTIM OF A CRIME AND ANY INAPPROPRIATE MISCONDUCT ENTITLED TO MORE SOCIETAL PROTECTION THAN THE SIXTEEN AND FIFTEEN YEAR OLD MURDER SUSPECTS IN TAYLOR V. MADDOX, 366 F.3d 992 (9TH CIR. 2003) AND HALEY V. OHIO, 322 U.S. 596, 599-601 (1948) TO PREVENT DETECTIVE FROM COERCING A FALSE STATEMENT FROM HER?

## LIST OF PARTIES

[x] 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**: [28 U.S.C. §2254 Writ by State Prisoner]

The opinion of the United States court of appeals 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 is unpublished.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 United States district court appears at Appendix B to the petition and is

reported at Unpublished 2015 U.S. Dist. LEXIS 166563; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

For cases from **state courts**: [Direct Appeal of State Judgment]

The opinion of the highest state court to review the merits appears at Appendix C 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 CALIFORNIA FOURTH APPELLATE DISTRICT court appears at Appendix D to the petition and is

reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

OPINIONS BELOW

[Continued]

[x] The Order denying the Petition for Panel Rehearing and Petition for Rehearing En Banc filed September 25, 2018, by the Ninth Circuit Court of Appeals in case number 16-55055 appears at Appendix E to the petition and is

[x] Unpublished.

[x] For Collateral Writ Petitions from State Court:

The opinion of the California Supreme Court in case number S-187353, filed May 11, 2011, denying the collateral discretionary petition for writ of habeas corpus appears at Appendix F to this petition and is

[x] Unpublished.

The opinion of the California Court of Appeal, Fourth Appellate District, Division Two, No. E-051468 filed August 17, 2010, denying the collateral discretionary petition for writ of habeas corpus appears at Appendix G to this petition and is

[x] Unpublished.

The opinion of the California Superior Court, in and for the County of Riverside in case number RIC-10006015 filed on May 28, 2010, denying the collateral discretionary petition for writ of habeas corpus appears at Appendix H to this petition and is

[x] Unpublished.

## JURISDICTION

### [x] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was August 17, 2018 [APPENDIX A]

[ ] No petition for rehearing was timely filed in my case.

[x] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: September 25, 2018, and a copy of the order denying rehearing appears at Appendix E.

[ ] 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 \_\_\_\_\_. A copy of that decision appears at Appendix \_\_\_\_\_.

[ ] 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).

## STATEMENT OF THE CASE

### I. FACTUAL SUMMARY<sup>/1</sup>

#### A. Incidents Involving Shalyse / 2

Shalyse was born in February 1989. She grew up in Moreno Valley, California with her mother. In 1998, she met petitioner; she was nine years old, and he was 16 years old. Petitioner had several cousins, including Jessica, Jillian, and Rachelle. Petitioner and Jessica lived with Victoria H., who was their aunt.

Petitioner began babysitting Shalyse and her little sisters and brothers because Shalyse's mother was out drinking or doing drugs. As Shalyse approached 10 years old, she spent more time with petitioner alone. Shalyse and petitioner became close friends, and she developed a crush on him. When Shalyse was still nine years old, she told petitioner that she loved him and then kissed him on the lips. After that, petitioner initiated kissing her and told her that he loved her.

1. The Factual Summary is taken verbatim from the California Court of Appeal Opinion attached in Appendix D, pages 3 through 13. [Footnotes Omitted. Footnotes are Petitioners.]

2. The state court referred to the alleged victims by their initials. While respecting the privacy of the alleged victims petitioner has used their first names only for purposes of clarity and consistency. Also, for ease of this Court in reviewing the attached declarations of alleged victims Rachelle and Jessica. (Appendix I and J, respectively.)

Petitioner also substitutes references to "appellant" and "defendant" in the record with "Petitioner."

When Shalyse was still nine years old, she and petitioner started kissing with their tongues. Petitioner then initiated sex with Shalyse. The first time they had sex, petitioner took off her pants and underwear. She straddled on top of defendant, who was wearing boxers. Petitioner put his penis in her vagina. She was scared but did not stop it. Petitioner ejaculated. After this first time, they had sexual intercourse every time they saw each other.

When she was 11 years old, Shalyse found out that petitioner's cousins were accusing petitioner of molesting them. After these allegations surfaced, petitioner moved to Perris. Shalyse and petitioner got together when they could and had sexual intercourse. During this time, petitioner would sometimes digitally penetrate Shalyse's vagina with his finger.

When Shalyse was 10 years old, she and petitioner would have sexual intercourse almost every day. When Shalyse was 11, she had sex with petitioner "a good couple hundred" times. When Shalyse was 12 years old, they had sexual intercourse approximately 30 times. In 2001 (when Shalyse was 12 years old), Shalyse's mother caught petitioner kissing Shalyse's neck. Petitioner was sent away. While petitioner was away, Shalyse dated another boy.

Petitioner returned from Perris and moved back in with Victoria just as Shalyse turned 13 years old. /3 Shalyse was then moved into a foster home. When she was 13 or 14 years

old and petitioner was 19 years old, while she was staying at a foster home in Moreno Valley, she met with petitioner, and they had sexual intercourse. He also used his fingers to penetrate her vagina, and they engaged in oral copulation. Between the ages of 13 and 14, petitioner and Shalyse had sexual intercourse 10 times and engaged in oral copulation 5 or 10 times. /4

Shalyse moved back into her mother's home just as she turned 14 years old. Shalyse and petitioner resumed their sexual relationship. When Shalyse was 14 years old and petitioner was 20, they had sexual intercourse approximately 20 times and engaged in oral copulation 5 to 10 times. They had sexual intercourse 10 to 15 times between February and May 2004, while Shalyse was 15 years old. During at least one of those occasions, petitioner put his finger in her vagina. /5

When Shalyse was 14 or 15 years old, she started to become concerned that they were going to get caught, so she would ask petitioner to stop while they were having sex. Petitioner would tell her that he loved her and convince her to continue. /6

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3. This was a factual conclusion by the state court that was objectively unreasonable and by clear and convincing evidence an incorrect finding. (28 U.S.C. §2254(d), (e)(1); Summer v. Mata (1981) 449 U.S. 539, 551.) Petitioner never moved back in the home after Jessica's 2002 allegations. (See Jessica's trial testimony at 2 R.T. 166, 242.) There is no evidence in the record whatsoever of Petitioner returning back to the family home. In fact, the jury's not guilty findings on all charges from this time period support this fact. (Counts 5-6, 11-12; Clerk's Transcripts on Appeal 188-211.)

In March 2004, Shalyse's mother started questioning her relationship with petitioner. They eventually ended the relationship. In August 2004, Shalyse committed herself into a mental facility due to suicidal thoughts and self-mutilation. She started to question whether her relationship with petitioner was right. Jessica was in the same mental facility with Shalyse. While in the facility, Jessica told Shalyse that the allegations of sexual abuse by petitioner that she had made in 2002 (that will be set forth, post) were true. Shalyse became hysterical. Shalyse told members of the hospital staff about the sexual activity between her and petitioner. The police were contacted.

Shalyse agreed to make phone calls to petitioner that would be monitored by the police. She made the first call to petitioner on August 17, 2004. During the call, petitioner never admitted that he had had intercourse with her. He admitted that they had kissed. He did not want to be on the phone with Shalyse because he felt it endangered him. Petitioner then indicated he was not sure if there was another person on the line and she was trying to get him to admit he had done something to her.

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4. This is a critical error of fact by the California Court of Appeal. Petitioner was found "Not Guilty" by the jury as to these allegations and time period. (Counts 5-6, 11-12; Clerk's Transcripts on Appeal, pp. 188-211.) These series of allegations acquitted by the jury covering Shalyse's allegations of sexual misconduct while she was 13 and 14 not only made the Court of Appeal's decision "objectively unreasonable" under 28 U.S.C. §2254(d) but a substantial and critical error of fact by "clear and convincing evidence" (the jury's verdicts of acquittal) pursuant to 28 U.S.C. §2254(e)(1).

A second call was made by Shalyse on August 24, 2004. Petitioner initially told her that he could not talk to her because of the accusations. Shalyse then lied to petitioner and told him that she was pregnant. She asked him to take a DNA test. Petitioner denied that they had had sex and then accused her of recording the conversation. Petitioner told her that his grandmother was sick because of the accusation and that he hoped she was going to try to straighten everything out.

Shalyse's mother confirmed that she let petitioner babysit her children because she was abusing drugs and alcohol and was unable to take care of them. Shalyse was 14 years old when her mother caught petitioner kissing Shalyse's neck while they sat on the edge of Shalyse's bed. Shalyse's mother had seen Shalyse with cuts on her arms, legs, stomach, and breasts due to self-mutilation. When she got a call from the staff at the mental facility that Shalyse was accusing petitioner of molesting her, Shalyse's mother immediately called the police.

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4. [Continued]

Not only was these erroneous findings utilized by the Court of Appeal in affirming the conviction on direct appeal but also by the separate Riverside Superior Court Judge denying the subsequent petition for writ of habeas corpus denied on May 28, 2010. (Appendix H) Compounding these critical errors was the U.S. Magistrate's Report and Recommendation (Appendix B, p. 5-6) and the District Court's Order accepting the findings of the Magistrate (Ibid) also appear to have relied on the same foregoing acquitted counts- all of which the jury found Petitioner "Not Guilty."

5. See footnote 4, above.

6. See footnote 4, above.

Kathy P. had known Shalyse since Shalyse was eight or nine years old. Kathy saw Shalyse daily when Shalyse was between 11 and 15 years old because Kathy drove her home from school. When Shalyse was dropped off; petitioner was usually waiting for Shalyse at the end of the driveway. He would give her a hug and put his arm around her.

Tracy, Kathy's daughter, met Shalyse when Shalyse was 9 or 10 years old. Shalyse started calling petitioner her boyfriend when she was 11 or 12 years old and told Tracy that they were having sex. Shalyse had told Tracy that there were times that she did not want to have sex with petitioner, but he would "force" her. In 2004, Jessica, who was also Tracy's friend, told her that petitioner had molested her.

#### B. Incidents Involving Rachelle

Rachelle was born in September 1988 and had lived with Victoria, petitioner, and Jessica for a short period when she was 10 years old and full time since she was approximately 12 years old. Petitioner and Jessica were her cousins.

When Rachelle was 10 years old and living with Victoria, and petitioner was 16 years old, she and petitioner were in his room alone together. Petitioner's door was closed. Rachelle's pants were off. She was lying on her back on the bed, and he inserted his penis into her vagina. She felt a "sharp pain" one time. They had sex an additional two or three times when she was 10 years old and another two or three times when she was 11 years old, which would have been in 1999; petitioner would have been either 17 or 18

years old. They no longer had sex after she was 12 years old because she tried to stay away from petitioner.

When she was between 12 and 13 years old, petitioner touched her buttocks and breasts by either rubbing or grabbing them. Petitioner touched her breasts and buttocks at least two times when she was 12 years old, and another two times when she was 13 years old. The touching on her buttocks was more like slapping. Rachelle could not be sure that, when these events occurred, petitioner was over 18 years old. The touching of her buttocks and breasts made her uncomfortable.

When Jessica told Rachelle in 2002 that she had been molested by petitioner, Rachelle told Jessica that she had also been molested. Jessica asked her to report the abuse, but Rachelle did not want to because she was scared.

#### **C. Incidents Involving Jillian**

Jillian was born in August 1988. She had spent summers at Victoria's house. Petitioner had touched her breasts, buttocks, and vagina over her bathing suit while they were in the backyard pool together during these summers.

This occurred from the time she was eight years old until about the time she was 13 years old. Petitioner touched her vagina over her bathing suit at least two times in the summer of 2001. He touched her breasts and vagina more than two times in the summer of 2002.

On more than one occasion, Jillian had been in petitioner's room sitting on the couch, and he had put his hand on her upper thigh and moved his hand up toward her

vagina. He had touched her vagina over her clothes while doing this. He usually did this when it was dark and they were watching a movie. He had also slapped her on the buttocks while they were in the house together.

Jillian never reported what petitioner had done to her because he had threatened her when she was 11 or 12 years old by holding a sword to her neck and telling her never to tell anyone what he did to her. Petitioner had told her that she had a "nice ass" but a bad attitude.

When Jillian was 11 years old, she stayed the night at Rachelle's house. Petitioner was also staying the night. Petitioner came into their room and forced each of them to give him a kiss goodnight. He made them use their tongues to kiss him.

When Jillian finally reported the molestation in 2004, Victoria told her that she was lying and manipulative and was tearing the family apart. in 2002, Jessica told Jillian that petitioner had made her take off her clothes and kneel on the floor, and then petitioner rubbed his penis against her. he made her touch his penis and kiss him. When Jessica reported the abuse in 2002, Victoria called her a liar.

Jillian had been kicked out of petitioner's bedroom when Shalyse was also in there, so Shalyse and petitioner would be alone. She had seen Shalyse on numerous occasions sit on petitioner's lap, which she thought was inappropriate.

#### **D. Prior Incidents Involving Jessica**

Jessica was born in February 1989, and lived with

Victoria because her parents had died. Jessica denied at trial that petitioner had ever touched her inappropriately. She claimed that she lied about any previous allegations of sexual abuse at the hands of petitioner.

Jessica recalled reporting in 2002 that petitioner started molesting her when she was five years old and continued until she was in the third or fourth grade. He would pull her pants down and have her get down on her knees.

He would then stand behind her and rub her stomach and naked buttocks. She could feel his penis rubbing on her buttocks. He would move his penis between his legs and she would feel "slime" on her buttocks.

Jessica claimed at the time of trial that she only made the sexual allegations to get petitioner out of her house. She was successful because he was forced to move in with her aunt, who lived in Perris. Once petitioner was out of the house, she immediately dropped the charges.

Jessica denied she ever told anyone she had sexual intercourse with petitioner. Even though she indicated that she had lied in 2002, she made the same allegations in May 2004 when the investigation in this case started and continued to confirm her allegations made in 2002 as late as December 2005.

If Jessica told Shalyse in the mental facility that petitioner had molested her also, she would have been lying. Jessica did tell Jillian that petitioner had rubbed his penis on her, but she had lied to her. Victoria never told Jessica

to come to court to lie. Victoria and Jessica had been visiting with petitioner in jail during the pendency of this trial.

Katherine F. had known Jessica since she was five or six years old. Jessica told Katherine that she had her pants off one time when she was 9 or 10 years old, and petitioner told her to get on top of him. His penis was exposed. She then was "rubbing" on him. Katherine did not recall telling anyone that Jessica had told her that petitioner had put his penis "inside" her.

In early 2002, Erin S. was told by Jessica that petitioner had molested her, but she gave Erin no details. In 2004, Erin again talked to Jessica about the molestation. Jessica told her that petitioner had put his penis inside her while she was bent over a pillow and that it hurt.

#### E. Other Witnesses and Investigation

Victoria had taken care of petitioner since he was two years old when her brother could no longer take care of him. Jillian, Jessica, Rachelle and petitioner were all blood cousins. Rachelle and Jillian lived with Victoria off and on through the years.

One of Victoria's brothers told her that she should watch petitioner and Shalyse because he thought there was inappropriate behavior between the two of them. Victoria told petitioner not to lock the door to his room if one of the children was in there. Victoria did think that Shalyse

had a crush on petitioner and that she acted inappropriately by hugging him and sitting on his lap. Although Victoria was told by Rachelle, Jillian, and Jessica that petitioner had molested them, she did not know whether to believe them or petitioner.

Victoria had been given the police reports in this case by petitioner's attorney. She had shown them to Rachelle and Jessica, who had both seen their statements contained in those reports prior to their testimony. Dale H. was Victoria's brother and Jillian's father. Dale had observed inappropriate behavior between Shalyse and petitioner. One time, he observed Shalyse change into her pajamas, then sit on the couch with her legs over petitioner, and she covered them with a blanket. Dale pulled petitioner aside and told him that their behavior looked "bad" and that he should watch himself.

Dale was aware of times that petitioner and Shalyse were in petitioner's room alone with the door closed. It appeared as though Shalyse had a crush on petitioner.

Riverside County sheriff's Sergeant Cheryl Owens was involved in the investigation of these incidents. In 2004, Sergeant Owens had interviewed Jessica and also observed an interview between Jessica and a person from Child Protective Services, specially, the Riverside County Child Assessment Team (RCAT).

During the RCAT interview, Jessica expressed her fear of Victoria, who had told Jessica that she had dreamed up the

molestation. Jessica told Sergeant Owens that she did not want to pursue the allegations against petitioner because she had been in therapy and had moved on.

During the investigation, Jessica had told Sergeant Owens that she had not bee in contact with her because Victoria had taken Sergeant Owen's business card from her. In August 2004, Jessica told Sergeant Owens that she wanted to prosecute petitioner. She said she would be in trouble with Victoria for talking to the police.

An investigator working with Sergeant Owens was told by petitioner in December 2004 that Shalyse was his ex-girlfriend and that the relationship ended in June 2004. He said they had only hugged and kissed. Petitioner also admitted that he played husband and doctor with Jessica and Rachelle when he was 11 years old, but he did not recall any inappropriate touching. petitioner told the investigator that he had gone to the girls and apologized if they thought he had touched them inappropriately.

[Appendix D, California Court of Appeal Opinion, pp. 3-13.]

## II. SUMMARY OF THE LOWER COURT PROCEEDINGS

### A. The Riverside Superior Court Trial Proceedings

Petitioner was arrested, on or about, December 21, 2004. Petitioner was charged in a felony Information in Counts 1 through 20 as follows:

Count 1: with child molest (Shaylse), from April 7, 2000, to February 13, 2001. (§ 288, subd. (a).); /7

Count 2: with child molest (Shalyse), from February 14, 2001, to February 13, 2002. (§ 288, subd. (a).);

Count 3: with child molest (Shaylse), from February 14, 2002, to February 13, 2003. (§ 288, subd. (a).);

Count 4: with unlawful sexual intercourse with a minor (Shaylse), from February 14, 2003, to February 13, 2004. (§ 261.5, subd. (d).);

Count 5: with unlawful sexual intercourse with a minor (Shaylse), from February 14, 2004, to December 2004. (§ 261.5, subd. (d).);

Count 6: with unlawful sexual intercourse with a minor (Shaylse), in the summer of 2004. (§ 261.5, subd. (d).);

Count 7: with oral copulation with a minor (Shaylse), from April 7, 2000, to February 13, 2001. (§ 288, subd. (d).);

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7. All statutory references are to the California Penal Code unless otherwise noted.

Count 8: with oral copulation with a minor (Shaylse), from February 14, 2001, to February 11, 2002. (§ 288a, subd. (b)(1).);

Count 9: with oral copulation with a minor (Shaylse), from February 14, 2002, to February 13, 2003. (§ 288a, subd. (b)(1).);

Count 10: with oral copulation, the petitioner being 21 years of age; the victim being under 16 years of age (Shaylse), from February 14, 2004, to December 2004. (§ 288a, subd. (b)(2).);

Count 11: with oral copulation, the defendant being over 21 years of age; the victim being under 16 years of age (Shaylse), from February 14, 2004, to December 2004. (§ 288a, subd. (b)(2).);

Count 12: with penetration with a foreign object with a minor under the age of 18 (Rachelle), during the summer of 2004. (§ 288, subd. (h).);

Count 13: with child molest (Rachelle), from September 26, 2000, to September 25, 2001. (§ 288, subd. (a).);

Count 14: with child molest (Rachelle), from September 26, 2000, to September 25, 2001. (§ 288, subd. (a).);

Count 15: with child molest (Rachelle), from September 26, 2001, to May 17, 2002. (§ 288, subd. (a).);

Count 16: with child molest (Rachelle), from September 26, 2001, to May 17, 2002. (§ 288, subd. (a).);

Count 17: with child molest (Jillian), in the summer of 2001. (§ 288, subd. (a).);

Count 18: with child molest (Jillian), in the summer of 2001. (§ 288, subd. (a).);

Count 19: with child molest (Jillian), in the summer of 2002. (§ 288, subd. (a).);

Count 20: with child molest (Jillian), in the summer of 2002. (§ 288, subd. (a).)

After jury trial Petitioner was found guilty of Counts 1, 2, 3, 4, 7, 8, 9, and 13 through 20. The jury found Petitioner not guilty of Counts 5, 6, 11, and 12. (1 C.T. pp. 188-211.) The jury also found Petitioner guilty of committing a lewd act upon more than one child within the meaning of section 667.61, subd. (e)(5). (1 C.T. 212.)

Petitioner was sentenced to consecutive terms of 15 years to life as to Counts 1, 2, 3, and 13 through 20. (Eleven sentences of 15 years to life terms consecutive to each other totaling 165 years to life.) As to Count 4, the Court imposed the midterm of three years consecutive, and the midterm of two years as to Counts 7, 8, 9, and 10 to run concurrent to Count 4. Petitioner was sentenced to total sentence of 168 Years to Life. (1 C.T. 288-292.)

After Sentencing on January 19, 2007, petitioner filed a timely Notice of Appeal on February 8, 2007, from the judgment of conviction and sentencing. (1 C.T. 293-294.)

### B. The Direct Appeal Proceedings

Petitioner's direct appeal before the California Fourth Appellate District, Division Two in Riverside, case number E-042411. Petitioner on appeal raised three issues:

1. Defense's Counsel concession of Petitioner's Guilt without Petitioner's authority violated Petitioner's Sixth Amendment right to present a defense and to effective assistance;
2. Counts 7, 8, and 9 were barred by the applicable statute of limitations because the Court can ascertain from the available records that the action is time-barred, it should dismiss the charges or, in the alternative, remand the cause for a hearing;
3. The Abstract of Judgment should be amended to reflect 874 days of custody credits.

None of the issues raised above on direct appeal were raised in the collateral petitions for writ of habeas corpus before the California courts.

The judgment was affirmed on September 9, 2008, in an unpublished opinion without dissent. (Appendix D) The Court of Appeal awarded 874 days of presentence credits but otherwise affirmed the judgment.

Thereafter, former appointed counsel for Petitioner, LAURA SCHAEFER, filed a Petition for Review before the California Supreme Court on or about October 20, 2009, in case number S-167670. The California Supreme Court denied

review in a one page and one line en banc denial stating: "The petition for review is denied" on December 17, 2008. (Appendix C)

#### C. The State Collateral Writ Proceedings

Petitioner, by and through former pro bono counsel, ROBERT E. YOUNG, filed collateral writ proceedings before the California Courts by petitions for writs of habeas corpus. Petitioner argued that he was being held illegally in violation of the First, Fifth, Sixth, Eighth and Fourteenth Amendments to the United Constitution for the following reasons:

1. Petitioner was denied the effective assistance of counsel at trial and on appeal;
2. Newly discovered evidence undermines the conviction and forms a basis for a reversal of the conviction;
3. The Prosecution intentionally suppressed material evidence material to petitioner's guilt or innocence;
4. The Prosecution intentionally presented false evidence material to Petitioner's guilt or innocence;
5. Due to outrageous government misconduct this conviction cannot stand, as it violates fundamental due process and is a miscarriage of justice;
6. Petitioner's convictions as to Counts 7, 8, and 9 were barred by the applicable statute of limitations.

Counsel for Petitioner, ROBERT E. YOUNG, filed a Petition for Writ of Habeas Corpus before the California Superior Court, in and for the County of Riverside, in

Department 2, before the Honorable Jeffrey Prevost on or about March 12, 2010, in case number RIF-10006015. The Superior Court denied the petition in a short form denial for "failure to state a prima facie case for relief. (Appendix H)

Petitioner filed the same issues in a Petition for Writ of Habeas Corpus before the California Court of Appeal, Fourth Appellate District, Division Two, in case number E-051468, which was denied by a one page Order on August 17, 2010. (Appendix G)

Petitioner filed the same issues in a Petition for Writ of Habeas Corpus before the California Supreme Court on October 18, 2010, which was assigned Supreme Court No. S-187353. The petition was denied in a one page Order on May 11, 2011. (Appendix F)

All three State Court collateral writ proceedings included the identical declarations of alleged victim Rachelle Hall dated March 9, 2010, attached as Appendix I, hereto, and the alleged victim Jessica Lamb dated March 8, 2010 as attached in Appendix J.

#### D. The Federal Habeas Corpus Proceedings

Petitioner, by and through former counsel of record, ROBERT E. YOUNG, filed a petition for writ of habeas corpus [by a state prisoner] pursuant to 28 U.S.C. §2254 in the Central District of California case number 11-cv-00609-MMM-DFM on April 18, 2011. [Doc. No. 1] An amended petition was filed on December 10, 2012. [Doc. No.

44] The writ petitions included the declarations of Rachelle Hall and Jessica Lamb attached hereto as Appendix I and J, respectively.

The Magistrate Judge's Report and Recommendation was filed on January 8, 2014, recommending that the writ be dismissed. (Appendix B)

The District Court filed an "Order Accepting Report & Recommendation" on December 11, 2015, and Judgment [JS-6]. (Appendix B) The District Court also denied a Certificate of Appealability.

#### E. The Ninth Circuit Court of Appeal Proceedings

Petitioner, by and through former counsel of record, ROBERT E. YOUNG, filed a Notice of Appeal of the District Court Judgment [JS-6] on January 8, 2016, before the Ninth Circuit Court of Appeals in case number 16-55055.

The Ninth Circuit Court of Appeal pursuant to their internal review policies on September 23, 2016, granted the request for certificate of appealability with respect to the following issues:

"1. Whether the prosecution suppressed evidence in violation of appellant's right to due process under Brady v. Maryland, 373 U.S. 83 (1963); and

2. Whether the prosecution introduced false evidence in violation of appellant's right to due process under Napue v. Illinois, 360 U.S. 264, 269 (1959). See 28 U.S.C. § 2253(c)(3); see also 9th Cir. 22-1(e)." [Doc. No. 3]

After extensive briefing by the parties the Court waived oral arguments, heard the matter on the briefs and submitted the matter on August 8, 2018. [Doc. No. 73]

The Ninth Circuit merits panel issued a five page Memorandum Disposition on August 17, 2018, which is attached as Appendix A and affirmed the District Court judgment of dismissal.

Petitioner filed a pro se Petition for Panel Rehearing and Petition for Rehearing En Banc on August 30, 2018. (Doc. No 77) The Ninth Circuit merits panel "voted to deny the petition for panel rehearing" on September 25, 2018.

(Appendix E) Further, the Court stated, "The full Court advised of the petition for rehearing en banc and no judge of the court has requested a vote on en banc hearing" and denied that as well. (Appendix E)

This writ of certiorari to the United States Supreme Court follows.

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

### FIFTH AMENDMENT OF THE UNITED STATES CONSTITUTION

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger, nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law, nor shall private property be taken for public use, without just compensation.

### SIXTH AMENDMENT OF THE UNITED STATES CONSTITUTION

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION

Section 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

## REASONS FOR GRANTING THE PETITION

### 1. Preliminary Statement

Presented throughout the State Courts in collateral writ proceedings, the Federal District Court in a 28 U.S.C. §2254 writ petition by a state prisoner and on appeal before the Ninth Circuit Court of Appeal were the following two Constitutional deprivations:

(1) whether the prosecution suppressed evidence in violation of petitioner's right to due process under Brady v. Maryland, 373 U.S. 83 (1963);

(2) whether the prosecution introduced false evidence in violation of petitioner's right to due process under Napue v. Illinois, 360 U.S. 264, 269 (1959).

The Superior Court found that the "petition fails to state a prima facie factual case supporting the petitioner's release." (Appendix H. "Where there has been an reasoned state judgment rejecting a federal claim, later unexplained orders upholding that judgment or rejecting the same claim rest upon the same ground." Ylst v. Nunnemaker, 501 U.S. 797, 803 (1991).)

The Federal District Court and the Ninth Circuit panel found that the new evidence of intentional suppression of evidence by the state and presentation of false evidence at the trial was "recantation" evidence "generally recognized as suspect" [Appendix A, p. 3] and that her declaration "was signed almost four years after the trial concluded, but did not explain the reason for her delay." [Ibid.] (Appendix I, Declaration of Alleged Victim Rachelle Hall; Appendix J, Supporting Declaration of Alleged Victim Jessica Lamb.)

Petitioner argues herein that a new exception to purported recantation testimony must be carved out by this high court where the alleged victim, as herein, claims police coercion, subornation of perjury [§ 127], witness intimidation [§ 136.1]

conspiracy to obstruct justice [§ 182] and other nefarious and criminal conduct to present false evidence before the trial court and jury. (Appendix I, Declaration of Rachelle Hall, pp. 3-6.)

This "recantation" included Rachelle's claim that when she informed the prosecutor of this misconduct by the investigating detectives, the prosecutor "did not care," "brought [Rachelle] next to tears" and insisted that she testify at the trial later that morning "as to what I had told the Detectives before" and that she "could get in a lot of trouble if I lied and that I could not go back on what I had said before." [Ibid, at p. 6.]

The prosecutor intentionally did not disclose to the defense prior to Rachelle taking the stand her early morning claims of subornation of perjury, intimidation and claims that she had not suffered any form of sexual by petitioner.

Neither the detectives nor the prosecutor has ever submitted a sworn declaration denying Rachelle's allegations.

## 2. The Genesis of these Allegations

On May 17, 2002, Jessica reported to her school counselor allegations of sexual assault by her cousin and petitioner that occurred when she "was four years old" and also perpetrated against her female cousin, Rachelle, when she was "four or five." (See, Incident Report, E.R. 282-285, at 285.) /8

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8. Petitioner uses "E.R." to designate the Excerpts of Records filed before the Ninth Circuit Court of Appeal in Hall v. Paramo, No. 16-555055. Petitioner and the four victims were all approximately six years apart. (Jesse Hall DOB: 04-07-82 [2 R.T. 211]; Rachelle Hall DOB: 09-26-88 [2 R.T. 247]; Jessica Lamb DOB: 02-07-89 [1 R.T. 144]; and Jillian Hall DOB: 08-26-88 [3 R.T. 399.].) The Reporter's Transcripts on Appeal are abbreviated "R.T."

Jessica and Rachelle were thirteen years old in 2002 when the initial allegations were made. Petitioner was twenty years old and was forced due to the Child Protective Services investigation to move out of the family home. Rachelle denied Jessica's allegation in 2002 when questioned by law enforcement as did Shaylse and Jillian who were later interviewed by the same law enforcement detectives and made allegations for the first time in 2004. (Appendix I, Declaration of alleged victim Rachelle Hall, pp. 3.)

The investigation found insufficient evidence of wrongdoing to prosecute and petitioner remained living outside of the family home and never returned. (Testimony of Jessica Lamb, 2 R.T. 166, 242.) Rachelle had denied the allegations with her school counselor, Social Workers and detectives throughout the initial allegations and the resulting investigation. (Appendix I, Rachelle Declaration, pp. 2, 3.)

### 3. The 2004 Re-Opened Investigation

In 2004 Jessica was placed in the Riverside County Mental Health Facility with Shaylse who was there for suicidal thoughts, cutting herself and upon her own request. (Appendix J, p. 3.) Shaylse disclosed to Jessica that she had gotten pregnant from an "older" boy and lost the baby. (Ibid, p. 3.)

"After we had been there for awhile Shaylse asked me about the allegations from 2002 and whether they were true. In part, to justify my mental health status, to be at ease with her with my own stories to tell and to fit in I told her a lie that the 2002 allegations were true."

"As an older mature woman I now know that Shaylse was looking for a way out of her 2004 crisis to justify her cutting herself, her mental health condition and to at the same time keep this boyfriend that got her

pregnant out of trouble by implicating my brother buttressed with my false allegations from 2002 of abuse when I was five years old." [Ibid.] /9

Thereafter, Shaylse made allegations against petitioner which she had steadfastly denied repeatedly in the past [2002-2004] and had even gotten in a fight with Jessica about in 2002 at Jr. High when she got mad at Jessica for making the false allegations developed a life of their own with hospital staff and Shaylse's mother filed criminal complaints.

#### 4. The August 2004 Interview of Rachelle

The case and investigation was assigned to two Senior Sexual Assault Detectives at the Moreno Valley Sub-Station for the Riverside County Sheriff's Department. 10/10

Rachelle was fifteen when she was summoned to the police station and denied the presence of her Aunt Victoria Hall whom she had requested to be present during the interview. (Appendix I, p. 4, para. 14.)

Rachelle told the detectives that she did not understand why she "was called in as my cousin had not done anything to me." [Ibid, para. 15.] "They insisted and began to question me as if I had done something wrong." [Ibid.]

"It was inferred that I could get in a lot of trouble if I lied, that I could be taken from my home and that I would be guilty of covering up for my cousin. With each question I was forced to react defensively and was so scared that I repeatedly asked to leave but they said only once I told the truth."

"I told them the truth and they called me a liar, misguided and mistaken. They told me they knew the truth, that Jesse had molested me and that I had to admit it. I told them that he did not and then they asked the same questions again and again with louder voices, insistent and in a threatening manner to a young girl of fifteen." [Ibid, para. 16.]

"I finally began to parrot whatever allegations or claims they demanded of me and told them that Jesse had molested me, had sex with me and that I was only ten years old the first time. I feel that they pushed my age up and up so that Jesse would have been eighteen years old and pushed me to say I was twelve years old and that he continued to touch me inappropriately after that. I now believe that these efforts were designed to bring criminal charges against Jesse once he turned eighteen." [Ibid, para. 17.]

"At the time of August 2004 police interview by the two detectives I denied Jesse had touched me but left that interview shocked and overcome with grief as they had forced me to make statements that were simply not true." [Ibid, para. 18.]

"Every effort after that to state the truth was viewed with disgust and contempt by law enforcement, the deputy district attorney and social workers. When I attempted to tell them of the coercive tactics used to cause me to falsely accuse my cousin they interrupted me to prevent me from disclosing these facts and acted as if I was lying." [Ibid, para. 19.]

"When I told law enforcement that it was not true they would interrupt me, asked me over and over if I had said at the August 2004 interview that Jesse had molested me, then asked me if I was lying then or now. They refuse to allow me to explain and then cross examined me ruthlessly to make me re-state what I said before, ignored my pleas that it was all a lie and ridiculed me for lying." [Ibid, pp. 4-5, para 20.]

"I was harassed mercilessly. Detectives, law enforcement and social workers called me out of school, out of class, on the phone, came to my home, had me meet them at a restaurant and at each contact I was repeatedly badgered to "tell the truth" which they insisted was my first statement implicating Jesse in sexual abuse against me. But it was not my first statement that implicated Jesse as I had repeatedly denied any such abuse in 2002 with the initial investigation, again with the girls and with my own relatives in 2002 and only after extreme badgering in August 2004 by the two detectives was I coerced into making the false statement before they would even allow me to leave the police station." [Ibid, p. 5, para. 21.]

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9. Petitioner would have been ten years old when Jessica was four. Hardly able to perpetrate the act on her and to leave "slime" on her buttocks from the sexual act as alleged by her.

"Finally, when I told the detectives that I wanted to withdraw my lies of August 2004 and that I intended to talk with my brother's attorneys I was told that if I did I would be in "serious trouble" if I did so. I was also told in person by the Deputy District Attorney Paradise that I could not talk to the defendant's attorney and that if I did I could get into trouble." [Ibid, para. 22.]

#### 5. Disclosure to the Prosecutor by Rachelle

"I am told that I testified on September 20, 2006, at Jesse's trial. Earlier that morning I was told to appear at the Offices of the District Attorney where I was met by Deputy District Attorney Paradise and another person whom I believe was a District Attorneys Investigator." [Ibid, para. 23.]

"On the morning I testified in this case I was interviewed by the Deputy District Attorney and her Investigator for approximately an hour or two but it felt like forever as I was repeatedly drilled by both of them as to what I would say. When I repeatedly told them that it did not happen, that I had lied and that I could not testify they ridiculed me, told me that I was just feeling regret for my cousin's predicament, that I had to testify to prevent him from harming another child and that it was normal." [Ibid, para. 24.]

"I told them it did not happen and instead of investigating or inquiring into my statement they countered very aggressively: "Did you not say at your interview of [whatever date], that he had sex with you?" I responded, "Yes, but I was lying." They drilled me again aggressively saying; "But didn't you also tell Detective [] that Jesse had sex with you?" I responded with my initial refusal to make such an allegation and that they forced me to say it before they would even let leave the police station." [Ibid, para. 25.]

"They did not care. They repeated that I would have to testify as to what I had told the Detectives before, that I could get in a lot of trouble if I lied and that I could not go back on what I had said before." [Ibid, pp. 5-6, para. 26.]

"I was brought next to tears and was in shock as they refused to even consider whether or not I was telling the truth that morning that nothing happened or the truth back in 2004 when I was coerced into lying against my cousin. They kept on telling me I would have to tell the truth about what I told the detectives and were not concerned about what the truth of the matter actually was." [Ibid, para. 27.]

"Later that day, I went into Court and testify on this case brainwashed into focusing on what I had told the detectives before and not what the truth actually was. Nothing was ever done to ascertain the truth as my scared school girl statement coerced by detectives became the "truth" and the prosecutor and detectives refused to consider any other contention but that Jesse was guilty. Certainly not when they interviewed me as my every effort to repudiate my false accusations was rejected by law enforcement." [Ibid, p. 6, para. 28.]

#### 6. Jessica's Repudiation of the Case the Day Before

Jessica testified the day before Rachelle met with the prosecutor and disclosed the extreme coercion used to get her to abandon her consistent denial of abuse over two years to her adoption of the detectives' "truth" as they insisted before they let her leave the police station. Jessica had testified in front of the jury that she made false allegations against petitioner as she was mad at him and wanted him out of the house. "I felt that, um, that would help him get out of the house. It would help me with the situation I was in. I had had some friends that had the same thing happen to them. I've seen it on TV. I know that if someone accused of that stuff, no matter what, they still can't be in the house with the person, even if they don't get found guilty." (2 R.T. 166.) In Jessica's attached declaration presented throughout the state and federal proceedings she stated:

"At the time I was deeply hurt by my older brother who paid little, if any attention to me, talked down to me, scolded me more than he did any of the other children and was a rude older brother. I got upset with him for some slight at the time and after seeing friends report abuse causing the alleged abuser to be removed from the home I falsely accused my brother, to my School Counselor in 2002." [Appendix J, p. 2, para. 7.] / 10

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10. Jessica committed suicide in 2016 after apologizing to her brother repeatedly and agonizing over what she had done. Jessica refers to Petitioner, her cousin, as her brother as they were raised together.

At trial Jessica explained, "We just had a horrible relationship at the time. I didn't like him. I just wanted him out of the house." (1 R.T. 149.) Immediately after Jessica's allegations petitioner was forced out of the only home he had ever known and "never moved back in, ever." (2 R.T. 242.) At trial she testified that she repeated her lies at the 2004 detective interview "because I know that if you lie to a police officer and make a lie in a statement you can get in trouble." (2 R.T. 160.) "I did not want to get in trouble." (2 R.T. 170.)

With Jessica's repudiation of the case the day before Rachelle's expose to the prosecutor the case would have collapsed had Rachelle's revelations as to the detectives' misconduct been disclosed to the defense and the jury./ 11

#### 7. The Delay in Disclosure by Rachelle was Caused by the State

Although, the Ninth Circuit and District Court relied upon the "almost four year delay" by Rachelle in disclosing the detectives and prosecutor's misconduct as evidence of recantation being inherently "suspect." It was attributable solely due to the repeated threats of these same state actors.

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11. The jury deliberated for over twenty-four hours over three days [C.T. 125, 180, 183, 188], sent out six different jury notes [C.T. 125, 180, 183- 188-190], there was no physical evidence, no DNA and no eye-witnesses other than the coerced victims and the trial court confirmed as much in analyzing the strength of the case and stating that the evidence was "not overwhelming." (3 R.T. 592-94.)

Rachelle's revelations as to witness intimidation, coercion, subornation of perjury and witness tampering would have surely pushed the jury to find "reasonable doubt." The prosecutor certainly knew this and that is why she did not release and disclose the early morning interview contents with Rachelle to the defense. A clear Brady v. Maryland, 373 U.S. 83, 87, (1963) violation. By allowing and insisting that Rachelle testify as to matters Rachelle claimed directly to the prosecutor were not true- the prosecutor presented knowingly false testimony in violation of Napue v. Illinois, 360 U.S. 264, 269. (1959)

"Finally, when I told the detectives that I wanted to withdraw my lies of August 2004 and that I intended to talk with my brother's attorneys I was told that if I did I would be in "serious trouble" if I did so. I was also told in person by the Deputy District Attorney Paradise that I could not talk to the defendant's attorney and that if I did I would get into trouble."  
[Appendix I, p. 5, para. 22.]

A. IF THE STANDARD UNDER BAREFOOT V. ESTELLE, 463 U.S. 893 (1983) FOR PRELIMINARY REVIEW OF A STATE WRIT PETITION REQUIRES THE ALLEGATIONS OF THE PETITION "TO BE TAKEN AS TRUE" IS IT NOT ENCUMBANT ON FEDERAL COURTS TO DO SO AS WELL IN WEIGHING WHETHER THE STATE'S DENIAL WAS "OBJECTIVELY UNREASONABLE?" [28 U.S.C. § 2254]

Petitioner argued in the lower federal courts that the state Superior Court's denial of the writ petition was "objectively unreasonable" as the high court's decision in Barefoot v. Estelle, 463 U.S. 880, 893 (1983) required that Court to assess the prima facie showing as if the factual allegations were "deemed to be true." As the state and federal writs contained sworn declarations of not only Constitutional deprivations but criminal misconduct on the part of the investigating detectives and prosecutors the state court simply could not have followed Barefoot when it denied the petition at the initial stage of review. [Appendix H.]

The federal district court and the Ninth Circuit panel simply determined Rachelle's sworn declaration was recantation testimony not worthy of consideration although Rachelle clearly reports extremely serious criminal acts of subornation of perjury and witness intimidation. Crimes that would have been investigated and prosecuted if they had been conducted by private non-state actors.

The perfunctory assessment and abandonment of the Barefoot holding by the state courts denied petitioner any opportunity

to obtain even a minimal denial of Rachelle's sworn allegations by the state actors- two senior detectives and prosecutor. The detectives did not even have to confirm under oath their claims that Rachelle's interview audio tape was "malfunctioning" which has always claimed was due to their misconduct and suppression of the tape which would have substantiated the abuse they put Rachelle under and is part of Petitioner's claims as suppression of evidence and a violation of Brady v. Maryland, 373 U.S. 83, 87 (1963).

Did the District Court and Ninth Circuit panel have a duty under 28 U.S.C. §2254 to determine if the state courts' denial of the writ petition were "objectively unreasonable" as Petitioner did make a prima facie showing requiring an Order to Show Cause and evidentiary hearing under Barefoot? The federal courts never once addressed this duty instead focusing on "other evidence" that might have undermined her declaration and her trial testimony she claims was coerced. (Appendix A, p. 3.) /12

B. IS IT RECASTATION WHEN A 15 YEAR OLD ALLEGED VICTIM REPORTS TO THE PROSECUTOR POLICE MISCONDUCT, SUBORNATION OF PERJURY, WITNESS INTIMIDATION AND OTHER CRIMES RESULTING A COERCED AND FABRICATED VICTIM STATEMENT PRIOR TO HER TESTIFYING?

Essentially, Rachelle was reporting egregious acts of obstruction of justice and serious crimes to the prosecutor prior to taking the stand if, as required by the high court in Barefoot her allegations are deemed to be true.

Rachelle reported to the prosecutor as a law enforcement Officer that at the beginning of the infamous August 2004 Detective interview she denied that Jesse sexually assaulted her. She had

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12. Under United States v. Agurs, 427 U.S. 97, 105 (1976) this Court held in a suppression and false evidence analysis that "the verdict is not saved because other competent evidence would support it." [Ibid, at n. 13 at 105.]

denied such false claims since 2002. They treated her as if she had done something wrong. It was inferred that she could get in a lot of trouble if she lied. That she could be taken from her home. That she would be guilty of covering up his crimes. She was forced to act defensively against two Senior female detectives. She was denied a support person against California law. Her adoptive mother Victoria Hall. She repeatedly asked to leave but "they said only once I told the truth." That "they knew the truth." When she denied anything had happened they called her a liar. The detectives told her they knew the truth and that she had to admit their version of the truth before they would let her leave. She repeated that petitioner had done nothing wrong. They asked the same questions again and again "with louder voices, insistent and in a threatening manner to a young girl of fifteen." Locked in a room, refused permission to leave, treated as a suspect- worse than a criminal suspect denied counsel and the right to remain silent without advisements- she was told she could not leave until she parroted whatever the detective insisted was the truth. She broke down. They pushed "her age up and up so that Jesse would have been eighteen years old and pushed me to say I was twelve..." [Appendix I, pp. 4-6.] Even though the original 2002 allegations of abuse were when Rachelle was "four or five" and Jesse ten. (E.R. 282-285, at 285.)

Later, when Rachelle is one day shy of eighteen years of age, she goes to the prosecutor and the DA's Investigator on the day she is to testify and discloses all of this. Reports a crime to a law enforcement officer. Rachelle is repeatedly drilled by the prosecutor and investigator as to what to say, When she re-

peatedly tells them it did not happen, they ridicule her, tell her she was just feeling regret, that she had to testify. They question her aggressively, "Did you not say at your interview..." Repeating the statements the detective forced her to say at the 2004 detective interview. Each time she told the prosecutor, "Yes. But I was lying." Coerced. Intimidated. She told the prosecutor that they would not let her leave the police station until I said it. The prosecutor did not care.

To seal petitioner's fate, Rachelle is told that she "would be in serious trouble" if she talks to defense counsel. By both the detectives and prosecutor. The prosecutor personally tells Rachelle that "I could not talk to the defendant's attorney and that if I did I could get into trouble." [Appendix I, p. 5.]

None of this was disclosed to the defense and is the most egregious act of suppression possible in a criminal prosecution where an alleged victim denies the very crime itself under Brady.

The absolute arrogance of this abuse is that it is not unusual for even hardened criminal suspects to falsely admit serious crimes when innocent while under such abuse and it is highly logical that such abuse by these actors would take place against a fifteen year old female school girl to gain their conviction. The outrageousness of these deprivations is the fact that none of the state actors- the two Senior Detectives, the Prosecutor or her Investigator have ever had to dispute these allegations by sworn declarations, nor appear before the cleansing rays of cross-examination in a Court of Law. In a case where the most extreme sanction of a sentence of 168 years to life in prison.

C. IS A FIFTEEN YEAR OLD FEMALE ALLEGED VICTIM DENYING SHE IS A VICTIM OF A CRIME AND ANY INAPPROPRIATE MISCONDUCT ENTITLED TO MORE SOCIETAL PROTECTION THAN THE SIXTEEN YEAR OLD MALE MURDER SUSPECT IN TAYLOR V. MADDOX, 366 F.3d 992 (9th Cir. 2003) AND HALEY V. OHIO, 322 U.S. 596, 599-601 (1948) TO PREVENT DETECTIVES FROM COERCING A FALSE STATEMENT FROM HER?

In Haley v. Ohio, 322 U.S. 596, 599-601 (1948) this Court reversed find that the egregious misconduct by law enforcement in obtaining a disputed confession from a fifteen year old murder suspect denied him his constitutional right to remain silent. In Taylor v. Maddox, 366 F.3d 992 (9th Cir. 2003) the lower court in this matter reversed a sixteen year old male murder suspect's conviction for similar egregious misconduct as the case at bench to obtain a false statement and admission of guilt.

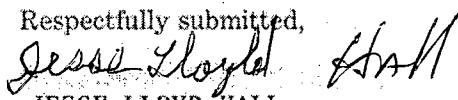
Since the McMartin Child Care Center fiasco of the 1980's the Court's have condemned such practices in minor alleged victim interviews. Where the alleged victims are interviewed with support persons- often their own parents present. Where overly aggressive detectives and interviewers mold their answers, like silly putty, into any desired direction. Where the interviews aren't taped; or as herein, the tape mysteriously "malfunctions." Or, even more reprehensibly, as herein, the alleged victim is threatened with being removed from her home, put "in trouble," even criminal liability and arrest, if they do not tell the "truth." The "truth" that the detectives' "knew." Put simply- adopt their truth or else...

This high court must adopt a standard requiring all such alleged victim interviews to video taped and if the tape malfunctions- to be reconducted with parents and support persons present. Anything else, as shown herein, smacks of a police state.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

  
JESSE LLOYD HALL  
PETITIONER IN PRO SE

Date: DECEMBER 19, 2018