

18-7288

NO. \_\_\_\_\_

ORIGINAL

FILED

JUN 13 2018

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

IN THE  
SUPREME COURT OF THE UNITED STATES

HARRISON, JAMIE — PETITIONER  
(Your Name)

vs.

CALIFORNIA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

JAMIE ROZELLE HARRISON  
(Your Name) ZENTRAL CALIFORNIA  
WOMEN'S FACILITY

P.O. Box 1508 / 23370 ROAD 22  
(Address)

CHOWCHILLA, CALIFORNIA

(City, State, Zip Code)

93610-1508

None  
(Phone Number)

QUESTION(S) PRESENTED

I. QUESTIONS; RAISED IN BOTH THE COURT OF APPEAL, AND THE CALIFORNIA SUPREME COURT HAVE SERIOUS DIFFERENCES RAISED IN THEIR OPINIONS THAT NEED TO BE ADDRESSED IN A HIGHER COURT OF LAW.

II. QUESTIONS; WERE RAISED IN REGARD TO BOTH LAW AND ACTUAL FACTS PRESENTED IN THE COURT OF LAW.

III. THE TRIAL COURT RETAINS THE DISCRETION TO DISMISS A STRIKE UNDER PROP. 57, AND /OR SENATE BILL 602- ?

IV. QUESTION; WAS PETITIONER UNITED STATES CONSTITUTIONAL RIGHTS VIOLATED UNDER THE 14<sup>TH</sup> AMENDMENT, ( RIGHT TO DUE PROCESS ) ?

V. QUESTION, SHOULD SOLORIO-RUIZ V. SESSION, 881 F.3d 133 (9<sup>TH</sup> CIR. 2018) APPLY TO PETITIONER CHARGE OF CAR JACKING AS A NON-VIOLATE PRIOR CRIME.

## 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:

## TABLE OF CONTENTS

OPINIONS BELOW .....	1
JURISDICTION.....	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED .....	
STATEMENT OF THE CASE .....	
REASONS FOR GRANTING THE WRIT .....	
CONCLUSION.....	

## INDEX TO APPENDICES

APPENDIX A - COURT OF APPEAL OPINION

APPENDIX B - SUPREME COURT OF THE STATE OF  
CALIFORNIA

APPENDIX C

APPENDIX D - SUPERIOR COURT OF SAN BERNARDINO

APPENDIX E - COURT REPORTER'S TRANSCRIPT OF  
APPEAL

APPENDIX F - MINUTE ORDER

## TABLE OF AUTHORITIES CITED

### CASES

			PAGE NUMBER
BULLARD V. CALIFORNIA STATE AUTOMOBILE ASSN.	(2005)	129 Cal. App. 4 <sup>th</sup>	211
In re ESTRADA (1965)	63	Cal. ad.	740
In re SANDERS (1999)	21	Cal. 4 <sup>th</sup>	694
In re JACKSON (1964)	61	Cal. ad.	500
In re SMITH (1970)	3	Cal. 3d.	192
PEOPLE V. ALLEN (1999)	21	Cal. 4 <sup>th</sup>	424
PEOPLE V. BERRY (2018)	235	Cal. App. 4 <sup>th</sup>	1414
PEOPLE V. CATES (2009)	170	Cal. App. 4 <sup>th</sup>	545
PEOPLE V. CERATENS (2014)	60	Cal. 4 <sup>th</sup>	659
PEOPLE V. EAGLE (2016)	246	Cal. App. 4 <sup>th</sup>	275
PEOPLE V. MENA (2012)	54	Cal. 4 <sup>th</sup>	146
PEOPLE V. MURDOCH (2011)	194	Cal. App. 4 <sup>th</sup>	230
PEOPLE V. ROSSI (1996)	18	Cal. 3d.	295
PEOPLE V. SCOTT (1994)	9	Cal. 4 <sup>th</sup>	331

### STATUTES AND RULES

#### HEALTH & SAFETY CODE § 11379

PENAL CODE	§ 459
PENAL CODE	§ 484
PENAL CODE	§ 496 (d)
PENAL CODE	§ 667
PENAL CODE	§ 667.5
PENAL CODE	§ 1170.12
PENAL CODE	§ 1237
PENAL CODE	§ 2933.1
PENAL CODE	§ 419

#### VCH. CODE § 10851

#### LEGISLATIVE HISTORY

SENATE BILL NO. 721 (2013 Reg. Sess.) § 2

STATS. 2011, ch. 15, § 194

SENATE BILL NO. 620 and SENATE BILL 180.

### OTHER CASES CONTINUED

PEOPLE V. VARGAS (2014)	59	Cal. 4 <sup>th</sup>	635
PEOPLE V. VILLA (2009)	45	Cal. 4 <sup>th</sup>	1063
PEOPLE V. WRIGHT (2006)	40	Cal. 4 <sup>th</sup>	81
PEOPLE V. ZACKEY (2009)	144	Cal. App. 4 <sup>th</sup>	380
SHOEMAKER V. HARRIS (2013)	214	Cal. App. 4 <sup>th</sup>	1210

### UNITED STATES CONSTITUTION

AMENDMENT(S) 6<sup>th</sup>, 8<sup>th</sup>, 12<sup>th</sup> & 14<sup>th</sup>.

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 COURT OF APPEAL; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished. DECEMBER 8, 2015

The opinion of the SUPREME COURT OF THE STATE court A, appears at Appendix 'B' to the petition and is

reported at AUGUST 29, 2016; 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 8/29/16. A copy of that decision appears at Appendix B.

A timely petition for rehearing was thereafter denied on the following date: 4/2 DISTRICT, and a copy of the order denying rehearing appears at Appendix C.

An extension of time to file the petition for a writ of certiorari was granted to and including 9/17/18 (date) on 06/19/18 (date) in Application No.   A  .

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

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

UNITED STATES CONSTITUTION

6<sup>TH</sup> AMENDMENT

8<sup>TH</sup> AMENDMENT

12<sup>TH</sup> AMENDMENT

14<sup>TH</sup> AMENDMENT

## STATEMENT OF THE CASE

PETITIONER ADOPTS THE FACTUAL AND PROCEDURAL BACKGROUND SET FORTH IN THE OPINION FOR PURPOSES OF THIS PETITION (opn. 1-4).

### FACTUAL BACKGROUND

ON JULY 30, 2009, POLICE OFFICER ABLOS UGO RESPONDED TO A CALL FROM RONALD HAYWOOD (VICTIM) WHO REPORTED THAT HIS HOUSE HAD BEEN BURGLARIZED. HE REPORTED SOMEONE HAD GAINED ACCESS TO HIS HOME AND STOLE SEVERAL ITEMS, INCLUDING TWO GUNS, HIS WALLET, HIS CAR KEYS, AND HIS CAR. HE ALSO, NOTICED THAT HIS KITCHEN WINDOW WAS BROKEN. OFFICER UGO OBSERVED BROKEN GLASS ON THE RIGHT SIDE OF THE KITCHEN WINDOW AND BLOOD STAIN ON THE WINDOW CURTAIN.

ON AUGUST 18, 2009, DETECTIVE LEO GRIEGO SPOTTED THE VICTIM'S STOLEN CAR PARKED IN FRONT OF A RESIDENCE THAT WAS BEING OBSERVED FOR NARCOTICS ACTIVITY. HE DECIDED TO WATCH THE CAR TO SEE IF ANYONE LEFT THE HOUSE AND GOT INTO THE CAR. AFTER ABOUT 15 MINUTES, SOME PEOPLE CAME OUT OF THE HOUSE AND DROVE AWAY IN THE CAR. BY THAT TIME, OTHER OFFICERS HAD ARRIVED AT THE SCENE. THEY FOLLOWED THE CAR A FEW BLOCKS AND CONDUCTED A VEHICLE STOP. THE OCCUPANTS WERE ORDERED OUT OF THE CAR. DEFENDANT WAS THE DRIVER.

THE POLICE SEARCHED THE CAR AND FOUND A BAGGIE CONTAINING METHAMPHETAMINE, A SMALL GLASS PIPE, AND A RING WITH FOUR KEYS ON IT. TWO WERE THE KEYS TO THE STOLEN CAR. FURTHERMORE, THE QUESTION ALSO TO SENTENCE, COURT NOR "GULF RECORDS ANALYST CAN DETERMINE THE ACTUAL" CORRECT PRISON TERM ON THIS CASE.

## REASONS FOR GRANTING THE PETITION

REVIEW SHOULD BE GRANTED TO CONFIRM THAT EVEN IF THE FACTS OF THIS CASE DO NOT FALL SQUARELY WITHIN THE HOLDING VARGAS, THE SENTENCING COURT COULD STILL CONSIDER THE CLOSENESS OF THE FACTS OF THIS CASE TO THOSE IN VARGAS IN EXERCISING ITS DISCRETION UNDER ROMERO.

FURTHERMORE; REVIEW SHOULD BE GRANTED TO CONFIRM THAT THE SENTENCING COURT ACTED WITHIN ITS JURISDICTION AND DID NOT VIOLATE THE REMAND ORDER IN HARRISON IN WHEN IT RE-CONSIDERED RESPONDENT'S ROMERO MOTION ON REMAND.

ALSO; REVIEW SHOULD BE GRANTED TO CONFIRM THAT A TRIAL COURT MAY CONSIDER THE CLOSENESS OF THE FACTS OF THE CASE BEFORE IT TO THOSE OF VARGAS IN EXERCISING ITS DISCRETION UNDER ROMERO.

## ARGUMENT.

THE TRIAL COURT DID NOT ABUSE ITS DISCRETION IN STRIKING ONE OF RESPONDENT / APPELLANT'S STRIKES WHEN IT FOUND THE VARGAS DOCTRINE APPLIED IN SUPPORT OF THIS ARGUMENT, RESENT DECISION. IN SOLALO-RUIZ V. SESSION, 881 F. 3d. 733 (4TH CIR. 2018) RULED THIS PRIOR ALLEGATION, FOR CARJACKING / ROBBERY AS NON-VIOLENT WOULD BE JUST CAUSE FOR REVIEW BY HIGHER COURT.

PEOPLE V. MYERS (1999) 69 Cal. App. 4<sup>th</sup> 305, 316.)  
THE RE-SENTENCING COURT EXERCISED ITS DISCRETION  
IN A MANNER GROUNDED IN REASONABLE JUDGMENT AND GUIDED  
BY LEGAL PRINCIPLES AND APPROPRIATE TO THE MATTER  
AT ISSUE. (PEOPLE V. GASTON, (1999) 74 Cal. 4<sup>th</sup> 310, 314-  
315.) THE DECISION TO STRIKE ON PETITIONER / APPELLANT'S  
TWO (2) STRIKES WAS BASED ON SOUND REASONING AND BASED  
ON FINDING OF FACT SUPPORTED BY SUBSTANTIAL EVIDENCE  
WHICH WERE MORE THAN SUFFICIENT TO WITHSTAND REVIEW  
UNDER THE CORRECT DEFERENTS STANDARD REVIEW SHOULD  
BE GRANTED, AND THE JUDGMENT OF THE RE-SENTENCING  
COURT SHOULD BE AFFIRMED.

SEE: ROMERO, supra, 13 Cal. 4<sup>th</sup> at pp. 530-531.

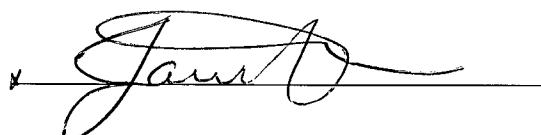
ALSO: SOLARIO-RUIZ V. SESSION, 881 F. 3d. 733 (9<sup>th</sup> Cir. 2018).

### CONCLUSION

FOR THE REASONS STATED ABOVE, PETITIONER / APPELLANT'S  
CONVICTION IN COUNT 5 FOR VIOLATION HSC § 11379 IS  
INVALID AND MUST BE REVERSED IN THE INTEREST OF  
JUSTICE.

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: OCTOBER 14 2018

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

IN THE  
SUPREME COURT OF THE UNITED STATES

HARRISON, JAMIE — PETITIONER  
(Your Name)

VS.

CALIFORNIA — RESPONDENT(S)

**PROOF OF SERVICE**

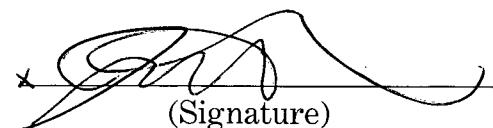
I, JAMIE ROZELLE HARRISON, do swear or declare that on this date, OCTOBER, 2018, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

UNITED STATES SUPREME COURT, CLERK'S OFFICE, 1 1ST STR,  
NE, WASHINGTON, D.C. 20543-0001, AND CALIFORNIA ATTORNEY  
GENERAL, CLERK, 300 SOUTH SPRING STREET, SUITE 1702  
LOS ANGELES, CA. 90013

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 14 of OCTOBER, 2018

  
(Signature)