

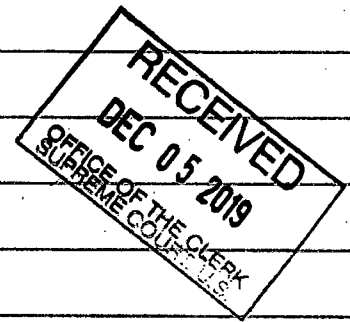
1 Gabriel Valencia #AP1133

2 S.V.S.P. C-2-C #221

3 P.O. Box 1050

4 Solidad Car. 93960

5 In Pro-se.



7 SUPREME COURT OF THE UNITED STATES

9 GABRIEL CERVANTES VALENCIA
10 Appellant,

Case No. 18-7571

PETITION FOR REHEARING

11 vs

Rules 44. AND 44.6, 44.2.

13 DAVEY WARDEN- IN THE STATE

14 OF CALIFORNIA

Respondent.

16 Appellant Gabriel C. Valencia is here in
17 petitioning this above entitled Court to review this motion
18 and grant the rehearing on the writ for Certiorari which
19 was denied on the date of 3/25/19.

20 Appellant relies on the following
21 moving papers numbered 1-7.

22 Respectively Submitted *[Signature]*

23 Gabriel C Valencia #AP1133

24 Dated 11/26/19 In Pro-se.

26 1/

27 1/

28 1/

PETITION FOR REHEARING

Declaration

1. Violation of Amendments 5th, 6th And 14th of The United States Constitution's Due Process Clause And Freedom Rights.

2. Due Process Guarantees that appellant in this matter be afforded an evidentiary hearing based on the facts of the issue and subclaims presented there in appellants Certiorari.

3. The fact is in evidence that the victim Danielle Martinez initial police interview was destroyed by the Azusa Police Dept Officer Robert Chivas.

4. There is clear present Contradictions between the victim Danielle Martinez and Officer Robert Chivas that brings to question the investigating officers in general.

5. In addition there was also a failure to retrieve in bad faith of a phone conversation between the Detective Tommy Avila and the same victim Danielle Martinez which the Det Avila received from the police department where all of the phone lines are recorded, of similar strong Contradictions of what contents of that conversation consisted of.

6. #5 is an issue that was not raised on appeal and is now being applied here in as an intervening circumstance and a substantial ground not previously presented which is a TROMBETTA VIOLATION, where appellant is showing this court, establishing a pattern of violations is support of appellants Certiorari issue(s). Raising to question the police (Azusa) investigation.

7. The above here in is showing that there was BRADY and TROMBETTA Violation(s), That needs further questioning by this court.

1 Continued:

2 8. The failure to retrieve and preserve the phone conversation between
3 the det Avila and the victim Martinez was admitted by det Avila in
4 testimony.

5 9. In short the victim Martinez stated within that conversation
6 that 'she did not know who robbed her and that that's
7 why she did not want to cooperate'. This was admitted
8 in testimony. (Recording Unretrieved)

9 10. In short the det Avila testified that the victim Martinez
10 in that unretrieved telephone call that she informed him
11 that 'she was in fear because of gang retaliation and that's
12 why she would not identify'.

13 11. Appellant asks this court to question as to why this det Avila
14 who 'combed through' all of appellants phone conversations
15 during, through out the investigation and up to trial, why he
16 did not retrieve his own 'phone recording and not to exclude
17 the taped recording of the victim Martinez initial statement
18 which was held "inside" of the police station. How does evidence
19 get lost and or destroyed as well as excluded for collection from
20 within the Arusa Police Department. They lost it and appellant
21 asks this court to question the prosecuting agency in regards to
22 these issues.

23 12. The victim Martinez also testified that she spoke to the det.
24 Avila over the phone about "4 to 5 times." These conversations
25 were also not retrieved, or stored, or collected by this investigating
26 officer who was the lead detective.

27 13. There are a 'Cumulative Effect of Errors' that violated
28 appellants Substantial Rights to a fair trial.

1 Continued:

2 14. These above subclaims are actions by law enforcement that
3 require the above entitled court to take action and hold those
4 accountable who violate citizens due Process rights, Substantial rights
5 for destruction of evidences in bad faith and failure to collect evidences
6 in bad faith. There has been a failure to regulate and enforce
7 the evidentiary rules and penalties for doing so within appellants
8 particular case.

9 15. The 5th, 6th and 14th Amendments to the U. S. Constitution
10 and the Due Process Rights Clause guarantee that appellant receive
11 a fair and impartial trial without deprivation. This U. S. Supreme
12 Court must act. For appellant has provided a pattern of bad faith
13 by the investigating officers of the Azusa Police department.

14 16. In an evidentiary hearing appellant will show even further issues
15 with the evidences that question the authenticity of the evidences
16 and the tunnel vision formed by the the investigating officers in
17 convicting, charging appellant with prejudice.

18 17. Appellant request that this court consider the effect, that
19 the destruction of evidence, failure to ~~collect~~ evidence among
20 other issues of non reliability of the witness Contreras, The vulnerable
21 victim Martinez who testified that she did not ~~know~~ who robbed her,
22 and that it was not appellant who robbed her. In this case of
23 circumstantial evidences the above Cumulative Effect of errors and
24 lack of reliable evidences clearly presents a problem for appellant in
25 a trial. (BRADY and TROMBETTA VIOLATIONS).

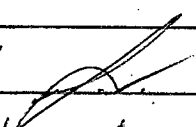
26 Conclusion on following page:

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28

1 Conclusion

2 Appellant Gabriel C. Valencia requests that this great court and honorable
3 Judge(s) reconsider this petition for rehearing (due to the clerks alleged
4 Out-of-Time rule). Consider this petition for rehearing due to the
5 Sub-claims # 1-17 and not to exclude the petition for Certiorari. Issue
6 an evidentiary hearing, Oral argument and or whatever appropriate
7 proceeding in order to cure the issues as a whole.

8 Respectively Submitted 

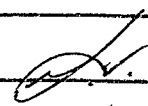
9 Gabriel Valencia * AP1133.

10 Dated: 11/26/19 In Pro-se.

1 Declaration

2 Declarant, Appellant Gabriel C. Valencia declares that he is a proper
3 litigant who is indigent and unable to pay court costs or fees. Appellant
4 further declares that the moving papers here-in are true and
5 correct to the best of appellants knowledge and with the penalty of
6 perjury. Appellant can argue and or provide the needed transcripts
7 in support of petition.

8 On 8/22/19: Appellant upon being remanded back to the trial court for
9 SB620 Enhancement hearing. Appellant a proper litigant filed for "Post
10 Discovery under §1054.9" Upon the granting of a single piece of new evidence
11 appellant was deprived of the contents of the detailed contents of the
12 newly found evidence handed over by the district attorney due to the
13 fact that this honorable courts judge Robert M. Martinez denied appellant
14 who was a proper litigant a private investigator which is a violation
15 of the 5th, 6th and 14th Amendment of the Constitution. A clear cut
16 violation of a Substantial Right. Appellant brings this to this courts
17 attention, so that this court can get a glimpse and understanding of the
18 hurdles of violations that this court, prosecution team has done in order to
19 deprive, prejudice and convict appellant. Appellant on 8/22/19 also filed a "Notice
20 of Appeal" with this court and on the record. Still appellant has not been
21 assigned appellate counsel which appellate requested in the 'NOA'. Its
22 going on three months and appellant is now being deprived of
23 appealing this court's actions by state appointed counsel. Appellant a
24 citizen of the United States asks that this high court step in and
25 act upon those who violate U.S. Constitution Rights, which are
26 promised and guaranteed Rights.

27 Respectively Submitted 

28 Gabriel C. Valencia #API133 Dated: 11/26/19 In Pro-se.