

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

EDGAR ARELLANO — PETITIONER
(Your Name)

VS.

PEOPLE OF CALIFORNIA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE SUPREME COURT OF CALIFORNIA - No. S246344
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

EDGAR ARELLANO (BC 1264)
(Your Name)

P.O. BOX 2199
(Address)

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

(626) 358-8089
(Phone Number)

QUESTION(S) PRESENTED

QUESTION NUMBER ONE

PETITIONER'S COUNSEL WAS INEFFECTIVE IN FAILING TO CONDUCT A REASONABLE PRE-TRIAL INVESTIGATION. THIS VIOLATED PETITIONER'S RIGHT TO COUNSEL, AS GUARANTEED BY AMENDMENTS 6 AND 14 TO THE U.S. CONSTITUTION.

QUESTION NUMBER TWO

PETITIONER WAS CONVICTED ON THE BASIS OF A GUILTY PLEA THAT WAS THE PRODUCT OF INEFFECTIVE ASSISTANCE OF COUNSEL. THIS VIOLATED PETITIONER'S RIGHT TO COUNSEL AND TO DUE PROCESS OF LAW AS GUARANTEED BY AMENDMENTS 6, 5 AND 14 TO THE U.S. CONSTITUTION.

QUESTION NUMBER THREE

PETITIONER APPELLATE COUNSEL WAS INEFFECTIVE IN FAILING TO AUGMENT THE APPELLATE RECORD WITH THE REPORTERS TRANSCRIPTS OF THE PRELIMINARY HEARING TO COURT CASE (#V070097) TO SHOW THAT PETITIONER'S PRIOR WAS INVALID. THIS VIOLATED PETITIONER'S RIGHT TO COUNSEL, AS GUARANTEED BY AMENDMENTS 6 AND 14 TO THE U.S. CONSTITUTION.

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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APPENDIX A DECISION OF STATE COURT OF APPEALS

APPENDIX B DECISION OF STATE SUPREME COURT DENYING REVIEW

APPENDIX C COPY OF NOTICE OF APPEAL RETURNED FROM APPEAL COURT
(NOT THE ORIGINAL COPY TURNED IN BY PETITIONER)

APPENDIX D COPY OF REPORTER TRANSCRIPTS OF PRELIMINARY HEARING
FOR COURT CASE (NO. VA070097)

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TABLE OF AUTHORITIES CITED

CASES

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- 1) STRICKLAND V. WASHINGTON 687 - 694
(1984) 466 US 668, 80 L Ed 2d 674, 104 S CT 2052
- 2) WIGGINS V. SMITH
539 U.S. 510 (2003)
- 3) SMITH V. ROBBINS
528 U.S. 470 (2000)

STATUTES AND RULES

OTHER

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

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

The opinion of the United States district court appears at Appendix _____ to the petition and is

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

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

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

The opinion of the _____ 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.

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 2-14-2018.
A copy of that decision appears at Appendix B.

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

- A) THE SIXTH AMENDMENT - A PERSON ACCUSED OF A CRIME HAS THE RIGHT TO A SPEEDY TRIAL BY JURY AND TO A LAWYER WHO WILL PRESENT HIS CASE AND CALL WITNESSES TO HIS DEFENCE
- B) THE FOURTEENTH AMENDMENT - FORMER SLAVES ARE CITIZENS OF THE UNITED STATES. ALL CITIZENS ARE GUARANTEED EQUAL PROTECTION UNDER THE LAW
- C) THE FIFTH AMENDMENT - PEOPLE SUSPECTED OF SERIOUS CRIMES MUST BE FORMALLY ACCUSED BY A GRAND JURY. A PERSON CANNOT BE TRIED FOR THE SAME CRIME TWICE. OR BE FORCED TO UP EVIDANCE AGAINST HIMSELF
- D) EIGHTH AMENDMENT - PEOPLE ACCUSED OF A CRIME ARE PROTECTED FROM UREASONABLE BAIL AND FINES AND FROM CRUEL PUNISHMENT

STATEMENT OF THE CASE

ON APRIL 2016 PETITIONER WAS ARRESTED FOR ONE COUNT OF BURGLARY PEN. CODE 459 (CT. NO. KA112598). AS PETITIONER WAS GOING TO COURT ON THAT CASE, PETITIONER'S TRIAL ATTORNEY TOLD THE PETITIONER THAT HE HAD TWO PRIOR CONVICTIONS FOR BURGLARY.

PETITIONER THEN TOLD THE TRIAL ATTORNEY THAT ONLY ONE OF THE CONVICTIONS WAS VALID, AND THAT SHE NEEDED TO CHECK THE PRIOR COURT RECORDS OF CASE (#VA070097) FOR ITS VALIDITY, BECAUSE NO PROPERTY WAS EVER TAKEN, AND THAT NO SPECIFIC INTENT TO COMMIT THEFT OR A FELONY WAS EVER PROVEN BY THE COURT. INSTEAD THE TRIAL ATTORNEY FAILED TO INVESTIGATE THE VALIDITY OF THE 2002 BURGLARY CASE (#VA070097).

I HAVE ADDED A COPY OF THE REPORTER'S TRANSCRIPTS OF THE PRELIMINARY HEARING, TO COURT CASE (#VA070097) DATED APRIL 5, 2002 LABELED APPENDIX 1, THAT I JUST RECEIVED A MONTH AGO, FROM THE SUPERIOR COURT FOR YOUR REVIEW. THE TRANSCRIPTS WILL SHOW THAT NO PROPERTY WAS EVER TAKEN, AND THAT THE ELEMENTS OF THE CRIME OF BURGLARY ARE NOT PRESENT (1) AN ENTRY AND (2) THE SPECIFIC INTENT TO COMMIT THEFT OR A FELONY.

PETITIONER'S MAJOR PREMISE IS LACK OF SPECIFIC INTENT TO COMMIT THEFT OR A FELONY, WHEN MORE THAN FIVE MINUTES HAD ELAPSED SINCE THE INITIAL OPENING OF THE DOOR IN QUESTION, AND PETITIONER WAS NOWHERE NEAR THE DOOR IN QUESTION, WHEN A UNMARKED SECURITY OFFICER TRIED TO QUESTION PETITIONER. FLIGHT FROM THE PREMISES IS INVALID AS A SPECIFIC INTENT, IF PETITIONER IS NOT IN THE PREMISES OF THE OPENED DOOR IN QUESTION AND WAS ONLY WALKING AWAY FROM A UNMARKED SECURITY GUARD. PETITIONER'S COUNSEL WAS INEFFECTIVE IN FAILING TO CONDUCT A REASONABLE PRE-TRIAL INVESTIGATION. THIS VIOLATED PETITIONER'S RIGHT TO COUNSEL, AS GUARANTEED BY AMENDMENTS 6 AND 14 TO THE U.S. CONSTITUTION. SEE WIGGINS V. SMITH, 1235. CT 2527 (2003).

INSTEAD TRIAL ATTORNEY TOLD THE PETITIONER TO TAKE A 22 YEAR PLEA DEAL, IN WHICH CASE (#VA070097) WAS USED AS A 5 YEAR PRIOR STRIKE ENHANCEMENT UNDER PEN. CODE 667.(A)(1). THEN TRIAL ATTORNEY PROCEEDED TO TELL PETITIONER THAT THE PLEA DEAL NEEDED TO BE SIGN ON THE SAME DAY THAT THE TRIAL ATTORNEY INFORMED PETITIONER OF THE COURTS PLEA DEAL OFFER, WITH NO TIME TO THINK ABOUT THE PLEA DEAL OFFER. THE TRIAL ATTORNEY FAILURE TO CORRECTLY EXPLAIN THE RISK AND BENEFITS OF PLEADING GUILTY VIOLATED

STATEMENT OF THE CASE

PETITIONERS DUE PROCESS. PETITIONER WAS CONVICTED ON THE BASIS OF A GUILTY PLEA THAT WAS THE PRODUCT OF INEFFECTIVE ASSISTANCE OF COUNSEL, THIS VIOLATED PETITIONERS RIGHT TO COUNSEL AND TO DUE PROCESS OF LAW, AS GUARANTEED BY AMENDMENTS 6, 5 AND 14 TO THE U.S. CONSTITUTION. AFTER PETITIONER SIGNED THE 12 YEAR PLEA DEAL, PETITIONER FILED A TIMELY HAND WRITTEN 60 DAY NOTICE OF APPEAL WITH THE SENTENCING SUPERIOR COURT, WHERE PETITIONER CLEARLY CHECKED THE PRINTED BOX LABELED #3, REQUESTING THAT THIS APPEAL CHALLENGES THE VALIDITY OF THE PLEA OR ADMISSION, AND THEN COMPLETED THE REQUEST FOR CERTIFICATE OF PROBABLE CAUSE ON PAGE #2 OF THE FORM. THE LOS ANGELES COUNTY SUPERIOR COURT AND THE COURT OF APPEAL SECOND APPELLATE DISTRICT, DENIED PETITIONERS REQUEST FOR A CERTIFICATE OF PROBABLE CAUSE BY CLAIMING THAT PETITIONER CHECKED THE WRONG PRE-PRINTED BOX ON THE 60 DAY NOTICE OF APPEAL FORM, CLAIMING THAT PETITIONER MARKED BOX #1 INSTEAD OF BOX #3. I HAVE ADDED A COPY OF THE 60 DAY NOTICE OF APPEAL FORM LABELED AS APPENDIX C THAT WAS RETURNED TO ME BY THE COURT OF APPEAL AT MARCH 13, 2017. THIS IS NOT THE ORIGINAL COPY THAT I MAILED UT TO THE SUPERIOR COURT A MONTH EARLIER ON FEBRUARY 8TH, ~~2017~~ WHICH WAS HAND WRITTEN (NOT FILLED OUT WITH A COMPUTER) WITH MY SIGNATURE AND BOX #3 CHECKED OFF, REQUESTING THAT APPEAL CHALLENGE THE VALIDITY OF THE PLEA OR ADMISSION, AND REQUESTING A CERTIFICATE OF PROBABLE CAUSE. ON SEVERAL OCCASIONS PETITIONER ASKED HIS APPELLATE ATTORNEY TO ASK THE SUPERIOR COURT FOR THE ORIGINAL 60 DAY NOTICE OF APPEAL THAT PETITIONER HAD ORIGINALLY FILLED OUT, BUT APPELLATE ATTORNEY FAILED TO ASK THE SUPERIOR COURT FOR THAT REQUEST. IN ADDITION PETITIONER ASKED APPELLATE ATTORNEY TO AUGMENT THE APPELLATE RECORD WITH THE REPORTER TRANSCRIPTS OF THE PRELIMINARY HEARINGS TO COURT CASE (# V07 0097) TO SHOW THE APPELLATE COURT WHY PETITIONER NEEDED THE CERTIFICATE OF PROBABLE CAUSE, BUT APPELLATE ATTORNEY FAILED TO AUGMENT THE RECORD WITH THE PRELIMINARY HEARING TRANSCRIPTS AND REQUESTING THE ORIGINAL 60 DAY APPEAL FORM FROM THE SUPERIOR COURT.

BY AMENDMENT 6 AND 14 TO THE U.S. CONSTITUTION
SEE SMITH V ROBBINS 528 U.S. 259 (2000)

REASONS FOR GRANTING THE PETITION

ARGUMENT SUMMARY

THE FOLLOWING FACTORS WERE ALL PRESENT IN THIS CASE:

- 1) TRIAL ATTORNEY WAS INEFFECTIVE IN FAILING TO CONDUCT A REASONABLE PRE-TRIAL INVESTIGATION TO SHOW THAT PETITIONERS PRIOR WAS INVALID.
- 2) THE TRIAL ATTORNEY FAILURE TO CORRECTLY EXPLAIN THE RISK AND BENEFITS OF PLEADING GUILTY AND NOT GIVING PETITIONER THE PROPER TIME TO EVALUATE THE COURTS PLEA DEAL.
- 3) APPELLATE COUNSEL WAS INEFFECTIVE IN FAILING TO INVESTIGATE AND ASK THE TRIAL COURT FOR THE ORIGINAL 60 DAY APPEAL FORM THAT PETITIONER HAD FILLED OUT, WHERE PETITIONER REQUESTED A CERTIFICATE OF PROBABLE COUSE TO CHALLENGE THE VALIDITY OF THE PLEA OR ADMISSION.
- 4) APPELLATE ATTORNEY WAS INEFFECTIVE IN FAILING TO AUGMENT THE RECORD WITH THE PRILIMINARY HEARING TRANSCRIPTS TO COURT CASE (# V070097) TO SHOW THAT PETITIONER'S PRIOR WAS INVALID.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

EDGAR J. ARELIANO

Date: MAY, 7 2018