

No. 18-8235

ORIGINAL

FILED

FEB 26 2019

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

Arthur Lopez
(Your Name)

— PETITIONER

vs.

The People
of the State of California

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Superior Court of California, County of Orange Appellate
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE) Division

PETITION FOR WRIT OF CERTIORARI

Arthur Lopez
(Your Name)

P.O. Box 13081

(Address)

Newport Beach, California 92658
(City, State, Zip Code)

949 467 0937

(Phone Number)

QUESTION(S) PRESENTED

Should the Actual Innocence of a Wrongfully Convicted Man due to the Deprivation of his Civil Rights under the United States Constitution 14th and 6th Amendments' protection and guarantees to Due Process and Equal Protection under the Laws and a Fair Trial, Competent Legal Representation - Speedy Trial and Impartial Jury warrant the immediate reversal of this injustice carried out by the Discriminatory Acts of those caught in a Racially Biased and Gender Biased Cultural Custom?

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☐ is unpublished.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☐ is unpublished.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 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☒ is unpublished.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☐ is unpublished.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 November 28, 2018.
A copy of that decision appears at Appendix D.

☐ 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

This matter before the Most Honorable Supreme Court of the United States of America is most significant for several reasons including the widespread deprivation of Civil Rights as provided by the 14th amendment and as such is presenting a huge bias of Parental rights and Custody rights in favor of the female parent and to the detriment of the male parent even as far as being unable to obtain Restraining Orders against the female parent.

First, Plaintiff, Arthur Lopez, is a

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See Appendix D, H, I and J

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1 male, Latino Father of four minor
2 children. The defendant, Cheryl Lopez,
3 is a female, white caucasian Mother
4 of the same four children. Both were
5 married in October of 2001 and were
6 declared divorced in September of 2016.

7
8 ① To start Plaintiff has been assaulted
9 repeatedly physically and verbally by the
10 defendant over many years.
11 One such incident occurred on November
12 22, 2015. See Appendix **I** - Daughter Jane Doe ^{See witness}
13 ^{and Plaintiff}

14 ② In addition, the defendant has made
15 repeated, multiple slanderous false
16 accusations and misrepresentations
17 against the Plaintiff which have
18 resulted in numerous bogus charges
19 being filed against Plaintiff.

20 One such incident occurred on November
21 22, 2015 - (See Appendix **I**) (transcript) ^{Not Guilty}

22 ③ Moreover, the Plaintiff has been subjected
23 to false arrest, false 37 day (See Appendix **I**)
24 imprisonment and malicious prosecution
25 as a direct result of the defendant's
26 false accusations, slanderous misrepresentations
27 trickery, deceit and unlawful conduct.
28 One such occurrence took place on or
about July 30th, 2016 and culminated in

6

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See Appendix

Plaintiff being taken into custody on September 12, 2016 during a hearing established to modify a protective order and not being released for 37 days until Honorable Judge Robert Yannon dismissed the bogus charge on or about October 19, 2016 on the court's own motion after considering the prosecution's evidence and Plaintiff's Due Process rights (see Appendix ~~K~~).

As a result of these and many other incidents of aggression, violence, physical and verbal assaults, criminal slander, false accusations by the defendant that have culminated in at least four bogus charges against Plaintiff being filed and later have been either dropped, dismissed or Not Guilty verdicts rendered, Plaintiff has been compelled to seek protection by way of a Criminal Restraining Order from the Superior Court of California @ Lamoreaux Justice Center located at 341 City Drive West, Orange, Ca. However, despite an abundance of evidence and qualifying criteria under the California Family Code § 6200 (Domestic Violence Prevention Act) the State Courts from top to bottom

1 have repeatedly deprived Plaintiff of
2 Equal Protection under the law and
3 have refused to provide Due Process
4 and thus further harm continues to
5 be perpetrated.

6
7 As to the November 22, 2015 multiple
8 physical assaults upon Plaintiff by the
9 defendant, while Plaintiff was (Appendix
10 exercising his Parental Right to discipline
11 his nine year old son for justifiable
12 the defendant first slammed the bedroom
13 door upon Plaintiff as he was shutting
14 the door for privacy. Plaintiff and his
15 son had discussed the process and
16 the defendant then proceeded to knock
17 Plaintiff of his feet. Moreover, after
18 Plaintiff had completed the one
19 corporal punishment to his son bottom
20 and had exited the bedroom the defendant
21 continued with her physical attack upon
22 the Plaintiff inflicting three cuts to his
23 face which drew blood. This now the
24 third assault upon Plaintiff did not
25 stop there. The defendant then proceeded
26 to yank three times on Plaintiff's
27 Crucifix - necklace until it busted
28 and then threw it on the ground in

8
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See Appendix

the adjacent living room.

Next, the defendant then continued her assault upon Plaintiff by making false statements to the Police resulting in three Bogus charges that ended with three Not Guilty verdicts after the trial of January 2016 - Case # (Appendix 1) 15 HM 122 ST. The defendant specifically misrepresented the facts related to the disciplining of his son, claiming some type of abuse, but the Jury found no wrongdoing by the Plaintiff on all matters pertaining to his son. Moreover, the defendant made false statements and misrepresentations related to some type of abuse towards her, but the Jury found absolutely no wrongdoing by the Plaintiff and returned two NOT Guilty verdicts. Consequently, at this juncture Plaintiff clearly is more than meeting the criteria for a restraining order against the defendant under the 14th amend and Family Code 6200/6203. Now the defendant was not done with assaulting Plaintiff three-four times after throwing the crucifix to the ground she attempted to deny Plaintiff the only

9

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1 functioning cell phone in the apartment
2 and engaged Plaintiff's oldest daughter,
3 who was sitting on the dining room
4 table, by tossing the phone to daughter.
5 When Plaintiff asked daughter for the
6 phone several times she instead
7 threw it back towards the defendant.
8 Plaintiff picked up the phone and spanked
9 daughter with an open hand one time
10 on her left shoulder to attempt to
11 end the aggression and for her defiance.
12 Defendant finally exited the apartment
13 and plaintiff drove all four of his
14 children to the beach where they
15 played for about an hour and
16 then headed back home. Plaintiff
17 remains in the appeal process for the
18 misdemeanor convictions that arose from
19 the phone issues and the one spank
20 to Plaintiff's daughter on the shoulder
21 neither of which would ever be repeated.
22 Following the January 2016 trial, Plaintiff's appeal
23 was presented with a 3yr. protective
24 order which included all four of Plaintiff's
25 minor children despite being found not
26 guilty of any wrongdoing related to
27 his son or the defendant or any of
28 the three other children, one of which

1 was sleeping in the adjacent room.
2 In fact, the protective order is in
3 conflict with case law from the
4 California Second Appellate District
5 in *People v. Carlos Reginald de la Rosa* and
6 (2014 D.T.D.A.R. 7959) whereby non
7 victims are barred from being included
8 in the Protective Order. Moreover, the
9 Not Guilty verdict as to the first son
10 also would indicate Double Jeopardy. Plaintiff
11 protections are being deprived by punishing
12 Plaintiff despite being found innocent
13 (see Appendix I+K+L) (Appendix I-Transcript)

14
15 Lastly, in regards to the third incident,
16 the Defendant again intentionally and/or
17 recklessly caused and/or attempted to cause
18 Plaintiff injury by engaging in false
19 accusations, slander, misrepresentation, in
20 violation of Ca Family Code 6203(a)(b), that (Appendix
21 lead to the false arrest, 37 Day False Imprisonment,
22 and malicious prosecution under case #16HM10451.
23 This assault by the defendant and assisted by Newport
24 Beach Police Detective Josh Vincelot, who is subject
25 of an ongoing Civil Federal litigation under
26 U.S. District Court Case #17-00488 VBF(MRW),
27 ended after Superior Court Honorable Judge Robert
28 Gannon dismissed the Charge and Case on the Courts
11 (Appendix K+L)

1 own Motion after considering the Prosecution's
2 evidence and the Plaintiff's Rights of Due Process
3 on October 19, 2016. It should be noted
4 that Plaintiff was ambushed by all those
5 involved including the defendant on
6 September 12, 2016 during a scheduled
7 Protective Order Modification Hearing before
8 Judge Stephanie George (who was also
9 arrested weeks later @ her home) @
10 the Harbor Justice Center - Superior Court, County
11 of Orange in a ploy to sabotage Plaintiff's
12 Petition to eliminate three of his children
13 from the Protective Order issued 1/14/2016 by
14 Judge Thomas Delaney of the same court since
15 these children were not victims nor involved
16 in the pending misdemeanors' appeal and as
17 established as barred from being added to
18 the Protective Order by Case Law from
19 the Second Appellate District in People v.
20 Carlos Reginald De la Rosa Randa (2014 DJAR
21 7959) (see Appendix M). Subsequent Appeal
22 filed for the Modification of Protective Order by Plaintiff
23 upon his release from custody 37 days later was
24 rejected because Appeal was not filed by my
25 Public Defender within 30 days of
26 Sept. 12, 2016 despite being incarcerated
27 through October 18 or 19th, 2016 - Related Case #s
28 Ca Supreme Court S241477 / Ca Court of Appeals Case #
Petition for Writ of Mandate Case #30-2016-65054626.

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1 These events are relevant since it reinforces
2 the fact the defendant has been motivated,
3 with assistance of the N.B. Police and D.A.,
4 to pursue continued false accusations,
5 slander, misrepresentations, assaults
6 against Plaintiff with the purpose of
7 framing the Plaintiff with numerous
8 bogus charges and facilitating the
9 deprivation of Plaintiff's Parental Rights
10 as the Father. In fact, there have been
11 three N.B. Police officers involved in
12 withholding evidence to bias the outcome
13 of Plaintiff's trial - Shawn Dugan, Mathew
14 Biagi and Josh Vuncelot (U.S. District
15 Court Case #s ^{SAKV-}16,02265 and ^{SAKV-}17-00488).

16 * Shawn Dugan and Mathew Biagi withheld
17 Plaintiff's statements related to the cuts to
18 his face caused by the defendant 11/22/15 and (appendix I)
19 whereby charges were needed and requested
20 to be filed against the defendant.

21 Therefore, Plaintiff having been injured by
22 the defendant's malicious unlawful acts
23 including Criminal Slander related to the
24 37 Day Imprisonment of Plaintiff as an entirely (appendix K & L)
25 innocent man with absolutely no wrong doing
26 between 9/12/16 - 10/18/16 is also entitled again
27 to a Criminal Restraining Order under Ca Family
28 Code 6203 and under the 14th amendment of the

13

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United States Constitution for "Equal Protection Under Law" and "Due Process".

For all these reasons and many more that have occurred before the events described and have occurred after these described, Plaintiff seeks this highest Court of the United States of America to restore the Rights under the 14th amendment and by doing so restoring the balance of equality to male parents of Latino, Minority Races in the issuance of Protection- Restraining Orders against the abusive unlawful acts of female parents through out the State of California. Moreover, by restoring this equality in Due Process and Equal Protection Under Law the children of this Plaintiff also are benefactors most importantly, as their deprivation of rights to maintain a loving relationship with their Father(s) will also be lifted and the fundamental basis for Family with both parents be Restored.

August 27, 2018

Arthur Lopez
ARTHUR LOPEZ

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Statement of Fact

Request for Good Cause :

not least of these is Appellant's
United States Constitutional Rights
under the Fourteenth and Sixth
Amendments.

First, The Fourteenth Amendment guarantees
under the United States Constitution
that all United States citizens will be
provided Due Process of Law and Equal
Protection under law. Moreover, this 14th
amendment forbids any "State" (California
included) from making or enforcing any law
which shall abridge the Privileges or Immunities
of Citizens of the United States nor deprive
any person of the aforementioned protections
of Due Process and Equal Protection under law.

In this matter of Appellant, Arthur Lopez's
Appeal of two Misdemeanor Convictions and
Denial of a Court Appointed Attorney and the
Dismissal by this court of said Appeal
constitutes a clear violation of Appellant's
U.S. Constitutional Rights under the
Fourteenth Amendment. In fact, the
deprivation of Appellant's 14th amendment
rights is two fold, by this court and the
lower courts ruling, see Exhibit "a".

Secondly, the United States Constitution
under the Sixth Amendment also provides
civil rights that guarantee the Assistance of

Counsel for Appellant's defence. Here both this court and the lower Superior Court are systematically depriving Appellant a court appointed attorney despite having permanent injuries/disabilities, and No Income. In fact, a fee waiver has been granted by both courts repeatedly but yet this U.S. Constitutional right under the 6th amendment is as a matter of policy denied under color of law, see exh "B".

Moreover, third, the Appellate Department of the Superior Court, Los Angeles County on January 9th, 1976 under *People v. Prince - Criminal*, A. No. 13378 established and reiterated "the accused shall, under the 6th amend., enjoy the right to ... have the Assistance of Counsel for his defence. In addition, it cited Section 15 of Article I of the California Constitution declaring that the defendant in a criminal cause has the right ... to have the assistance of counsel. The court went on to quote *In re Johnson* (1965) 62 Cal. 2d 328 [42 Cal. Rptr. 228, 398 P.2d 420] at Page 329: "... There can be no doubt that the fundamental constitutional right to assistance of counsel at all stages of the proceedings (see *Gideon v. Wainwright* (1963) 372 U.S. 335 [83 S. Ct. 792, 9 L. Ed. 2d 799, 93 A.L.R. 2d 733]. *People v. Douglas* (1964) 61 Cal. 2d 430, 434 [1] [38 Cal. Rptr. 884,

392 P.2d 964]) is, in California at least, not limited to felony cases but is equally guaranteed to persons charged with misdemeanors in a municipal or inferior court, (see exh 'c').

Fourth, the Supreme Court of the United States in Brewer v. Williams, 430 U.S. 387 - March 23, 1977 ruled that the respondent was entitled to a new trial because he was deprived of the right to assistance of Counsel (see exh. 'd'). In this matter before this court Appellant, Arthur Lopez, has been deprived of his U.S. Constitutional right under the Sixth Amendment to the assistance of Counsel in his Criminal Misdemeanor case by both the lower Superior Court and by this court as well and as such, should be granted a competent court appointed counsel for assistance and Appellant's Appeal Case should move forward and Dismissal issued on 9/13/18 reversed.

Last, Appellant offers Good Cause to this court for the submission of the above Points of Authority after the August 31, 2018 due date since multiple doctor appt/visits were required in the month of August due to his permanent

1 inquiries / disabilities along with medical care
2 required visit. Additionally, Appellant was
3 required/ordered to appear in Superior Court
4 Riverside County in early August and lastly
5 Appellant was compelled to seek relief
6 from the Federal District Court by way of
7 a Temporary Restraining Order - Preliminary
8 Injunction against a Presiding Judge and CA
9 Court of Appeals in a different Division for
10 the systematic deprivation of Appellant's
11 Civil Rights under Color of Law. As such,
12 Appellant requested a stay from this court.

13 For all these reasons and more Appellants
14 seeks this court's reconsideration of the
15 September 13, 2018 Order to Dismiss
16 this case.

17
18
19 Respectfully submitted,

20
21 (Arthur Lopez)
22
23 ARTHUR LOPEZ
24
25
26
27
28

09/18/18

REASONS FOR GRANTING THE PETITION

This Petition should be granted to right an injustice and miscarriage of judicial authority. This Petition should be allowed to restore the U.S. Constitutional Rights of this Appellant /Petitioner and every United State Resident who is compelled to fight false allegations and corrupt entities. Petitioner's record should be restored to its clear state as it was prior to November 22, 2015 and the vilification crusade by those who have conspired to deprive Petitioner's Constitutional rights should be barred from these framing schemes to impose their bias.

CONCLUSION

The petition for a writ of certiorari should be granted.

Humbly and
Respectfully submitted,

Arthur Lopez

Date: *February 26, 2019*