ORIGINAL
PG ONE

No. 18-8713

ORIGINAL

Supreme Court, U.S.
FILED
MAR 09 2019
OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

In Re

BRIAND WILLIAMS — PETITIONER
(Your Name)

vs.

California & Gavin C. Newsom — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE SUPREME COURT FOR THE STATE OF CALIFORNIA
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

BRIAND WILLIAMS
(Your Name)

c/o BRB WMS-LOGAN-ESQ; 9025 Wilshire Blvd 5th Flr
(Address)

Beverly Hills 90211-1867
(City, State, Zip Code)

None As of Yet but Eventually
(Phone Number)

PG. TWO

QUESTION(S) PRESENTED

1) Does a Defendant have a right to replace his privately retained choice of counsel at anytime during the trial court proceeding even up to and at the actual point in time of the actual sentencing phase**??? Even,** Where there would not be any 'disruption of the orderly processes of justice'; where there is no jury waiting in the wings and where there are no witnesses that would have to be ordered back**???** (See, ***People v. Ortiz*** (1990) 51 Cal. 3d 975, 982-983 at p. 988; ***People vs. Munoz*** (4-17-2006) 138 CA 4th 860; ***People vs. Hernandez*** (5-5-2006) 139 CA 4th 101, 109; ***U.S. vs. Gonzalez-Lopez*** (6-26-2006) 548 US 140; ***Gall vs. US*** (2007) 522 US 38; ***Chapman vs. California*** (1967) 386 US 18, 23; ***Cuyler vs. Sullivan*** (1980) 466 US 335; ***People vs. Gzikowski*** (1982) 32 Cal. 3d 580, 586 and **Code of Civil Procedure §284** subd. (**2**))

2) When a Defendant is denied the right to retain his own choice of counsel, is that denial **[equivalent to forcing him into trial]** without adequate representation even into the sentencing phase where a significant due process violation has already taken place prior to the actual sentencing proceedings where defendant's retain counsel had failed to make a timely motion for the defendant to withdrawn the plea that counsel had the defendant enter into for a single count filed beyond the Statute of Limitations**?** Did this denial significantly prejudice the defendant's fundamental due process rights**?** (See, ***People v. Ortiz*** (1990) 51 Cal. 3d 975, 982-983 at p. 988; ***People vs. Munoz*** (4-17-2006) 138 CA 4th 860; ***People vs. Hernandez*** (5-5-2006) 139 CA 4th 101, 109; ***United States vs. Gonzalez-Lopez*** (6-26-2006) 548 US 140; ***Gall vs. US*** (2007) 522 US 38; ***Chapman vs. California*** (1967) 386 US 18, 23; ***Cuyler vs. Sullivan*** (1980) 466 US 335; ***People vs. Gzikowski*** (1982) 32 Cal. 3d 580, 586 & **CCP §284** subd. (**2**))

3) Where the court record is **[b]ereft** of any reasonable basis as to why was the defendant's verbal Motion to Withdraw his Plea was unreasonable **or** was even assumed untimely in light of the fact that the trial sentencing court judge would not allow the defendant to replace his privately retained counsel of his choice so that the Motion to Withdraw his Plea could be properly filed and plead in light of his due process violations; **Did** the court violate the defendant's fundamental choice to retain another private Counsel**? (See, [*People vs. Marsden*** (1970) 2 C. 3d 118; ***People vs. Griggs*** (1941) 17 C. 2d 621; ***People vs. Schwarz*** (1927) 201 Cal. 309, 314; ***Carter vs. Illinois*** (1946) 329 US 173] Due to **Improperly Induced–Coercively Forced Plea** through ***Mis-Advisement*** caused by the ***Unusual Extra Judicial Pressure*** for the plea ***taken under duress*** and from under ***Influence from implicitly & negotiated events*** by the trial court back on ***July 15th, 2016***.) **See, *Johnson vs. Zerbst*** (1938) 304 US 458 at p. 464; ***People v. Ortiz*** (1990) 51 Cal. 3d 975, 982-983 at p. 988; ***People vs. Munoz*** (4-17-2006) 138 CA 4th 860; ***People vs. Hernandez*** (5-5-2006) 139 CA 4th 101, 109; ***United States vs. Gonzalez-Lopez*** (6-26-2006) 548 US 140; ***Gall vs. US*** (2007) 522 US 38; ***Chapman vs. California*** (1967) 386 US 18, 23; ***Cuyler vs. Sullivan*** (1980) 466 US 335; ***People vs. Gzikowski*** (1982) 32 Cal. 3d 580, 586 & **CCP §284** subd. (**2**))

4) Did the trial court deny the defendant his State and Federal Constitutional Rights to discharge his private retained counsel of record under the Due Process and Equal Protection under the Color of Law when the defendant asked for a Marsden Hearing as a way to express his desire to do so prior to any sentencing where there would have been ***No*** result in 'significant prejudice' to the defendant **and** ***No*** 'disruption of the orderly processes of justice'**???** (See, ***People v. Ortiz*** (1990) 51 Cal. 3d 975, 982-983 at p. 988; ***People vs. Munoz*** (4-17-2006) 138 CA 4th 860; ***People vs. Hernandez*** (5-5-2006) 139 CA 4th 101, 109; ***United States vs. Gonzalez-Lopez*** (6-26-2006) 548 US 140; ***Gall vs. US*** (2007) 522 US 38; ***Chapman vs. California*** (1967) 386 US 18, 23; ***Cuyler vs. Sullivan*** (1980) 466 US 335; ***People vs. Gzikowski*** (1982) 32 Cal. 3d 580, 586 and **Code of Civil Procedure §284** subd. (**2**)

5) Did the trial court outright deny the defendant his Guaranteed 6th Amendment Right to counsel of his choice when the trial court choose and refused to address the defendant's desire to discuss the problem**(s)** and issue**(s)** that had arisen for his desire to fire and replace his private counsel with another private counsel of his choice**??? If so,** (**2**) was this ***Prejudicial*** and a *Fundamental Miscarriage of Justice* on the procedural level as a Violation of the State Govern Statute under the **Code of Civil Procedure §284** subd. (**2**) **??? And if so,** (**3**) should the Defendant's ***Conviction be Reversed*** due to the denial of such right and be given the right to seek out the procedural vehicle to finish up the process in pursuit to file the ***Motion to Withdraw the ill gotten Plea.*** (See, ***People v. Ortiz*** (1990) 51 Cal. 3d 975, 982-983 at p. 988; ***People vs. Munoz*** (4-17-2006) 138 CA 4th 860; ***People vs. Hernandez*** (5-5-2006) 139 CA 4th 101, 109; ***United States vs. Gonzalez-Lopez*** (6-26-2006) 548 US 140; ***Gall vs. US*** (2007) 522 US 38; ***Chapman vs. California*** (1967) 386 US 18, 23; ***Cuyler vs. Sullivan*** (1980) 466 US 335 and ***People vs. Gzikowski*** (1982) 32 Cal. 3d 580, 586)

6) Where ***duress, [extrinsic causes] fear, threats, coercion, bullying and intimidation using these strong-arm tactics of persuasions which can*** overcome the exercise of a defendant's free judgment which resulted from the prior duress and ***[extrinsic causes]*** from both the Judicial officer on the bench and the District Attorney even up to the point of entering into the [no contest plea] **{viz.,}** because of the constant fear of defendant's Liberty Interest and Bail being Revoked by Judge Katherine Mader and the Prosecuting Attorney D.D.A. Louis Parise which had been a constantly ongoing issue of forcibly trying to make the Defendant Register as a Sex Offender as part of keeping his Bail Bond ***which was never a factor in the [ONSET]*** when the Defendant had originally posted bail in the first place prior to the use of these ***strong-arm tactics of persuasions***. (See, Defendantt's Cal. S. Court Case Nos. ***S234319*** and X-Ref 2nd Case Filing ***S235307***) Is the Defendant clearly entitled to ***Withdraw his non-freedom of an informed choice Plea*** after being placed in a pressure cooker to plead-out due to coercive tactics**???** (See ***People vs. Williams*** (1969) 269 CA 879, **HN5, 6;** ***People vs. Schwarz*** (1927) 201 Cal. 309, 314; ***People vs. Griggs*** (1941) 17 Cal. 2d 621)

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7) Does a Defendant have to [explicitly] state to the court that he is ***no longer happy*** with privately retained counsel in front of the D.A. in order to receive the relief that he seeks? ***People vs. Hernandez*** (2006) 139 Cal. App. 4th 101, 109; ***People vs. Munoz*** (2006) 123 CA 4th 860.

8) Is a Plea Bargain Agreement in essence a contract between the defendant and the prosecutor on behalf of the State**???** **And if so,** can the defendant be relieved from the restraints of the agreement where the Statute of Limitations is Jurisdictional in nature, and where the court had lacked such jurisdiction to prosecute the matter**??? (2)** Can a defendant still be forced and bound to that agreement when the Statute of Limitation had expired already **(ran out)** after ***three*** (3) years, ***three*** (3) months, and ***fifteen*** (15) days for any charges to had been timely filed. (**See** ***Cal. Pen. Code*** §§800-802 **and** §804; ***Statute of Limitations*** (1935) 23 Cal. L. Rev. at pp 525-527; ***In re Harris*** (1993) 5 C. 4th 813, **HN 11;** ***People vs. Chapman*** (1975) 47 CA 3d 597; ***People vs. Hoffman*** (1933) 132 CA 60; ***People vs. Lynch*** (2010) 182 CA 4th 1262; ***People vs. Sup. Ct. (Meeks)*** (1991) 1 C. 4th 56, 66 **HN 5;** ***United States vs. Williams*** (1951) 341 US 58, 68; ***In re Albert B. Demillo*** (1975) 14 C. 3d 598; ***People vs. Miller*** (1859) 12 C. 291; ***People vs. Picetti*** (1899) 124 C. 361; ***Ex parte Vice*** (1901) 5 C. 153; ***People vs. McGee*** (1934) 1 C. 2d 611; ***People vs. Rose*** (1972) 28 CA 3d 414; ***People vs. Morgan*** (1977) 75 CA 3d 32; ***People vs. Chadd*** (1981) 28 3d 739; ***People vs. Brice*** (1988) 206 CA 3d 111; ***People vs. Angel*** (1999) 70 Cal. 4th 1141; ***People vs. Williams*** (1999) 21 C. 4th 335; ***Sanders vs. Sup. Ct.*** (1999) 76 CA 4th 609; ***Kellett vs. Sup. Ct.*** (1966) 63 C. 2d 822; ***In re Davis*** (1936) 13 CA 2d 109; ***In re McVickers*** (1946) 29 C. 2d 264, 274, 280; ***In re Carmen*** (1957) 48 C. 2d 851, 854; ***People vs. Crosby*** (1962) 58 C. 2d 713, 724-725) **If [not] (2)** ***Under the Color of Law*** Is the Defendant entitled under the Equal Protection Analysis and Due Process entitled to an **Evidentiary Hearing** to make a conclusive finding to determine whether the plea between the defendant and the People for the State of California can be enforced after **or** once the State of California Statute of Limitations has long ran out**???**

9) Once a plea agreement has been reached, can the District Attorney's office ***Renege*** on the ***ORIGINAL*** agreement long after the defendant has full-filled his part of that agreement well over twenty-two (22) years ago **(prior)** after the original bargain was reached and nearly twenty (20) years after the defendant had completed the three (3) full years of Formal Probation under that ***ORIGINAL*** agreement**?? (See,** ***Santobello vs. New York*** (1971) 404 US 257, 260, 262; ***United States vs. Paiva*** (D.D.C. 1969) 294 F. Supp.742; ***People vs. Cortez*** (1970) 13 CA 3d 317; ***Buckley vs, Terhune*** (9th Cir. 2006) 441 F.3d 688, 695; citing: ***Ricketts v. Adamson,*** (1987) 483 U.S. 1, 6 **n.3.** ***In California,*** "[a] negotiated plea agreement is a form of contract, and it is interpreted according to general contract principles," ***People v. Shelton*** (2006) 37 Cal.4th 759, 767, and "according to the same rules as other contracts," ***People v. Toscano*** (2004) 124 CA 4th 340, 344, (cited with approval in Shelton along with other California cases to same effect dating back to 1982). Thus, under Adamson, California courts are required to construe and interpret plea agreements in accordance

with state contract law. (See, ***Brown vs. Poole*** (9th Cir. 2003) 337 F.3d 1155, 1159.)).

10) Did the agents, representatives, (DA's office) for the State of California, ***Revoke*** the **[Original]** plea bargain agreement without the defendant's knowledge after the first fourteen (14) years from what the defendant had relied upon in the acceptance from the promises made to him back on ***July 16th, 1996*** at the time of sentencing, which was to plead **"YES"** to a charge of **261.5(c) PC** and to be released on that very same day??? **(2)** Can the defendant now be charged continuously with "failure to update registration Annually" where there has ***never been*** **any [I]nitial or *Previous registration to update from ever*** in the defendant's entire life??? The term ***"FOLLOWING REGISTERATION"*** is meaningless when there is **{[NO!!!]}** REGISTRATION to follow. **And, if so (3)** Does this ***Pre-Indictment Delay*** which is in Violation if the *Due Process* & *Equal Protection* entitle the defendant to **withdraw** his ***July 15th, 2016*** Plea???

11) Is the Defendant entitled to Withdraw his July 15th, 2016 Plea due to **J**udicial **P**ressure of **D**uress, **F**raud and the fact of **overreaching** the **D**efendant's **F**ree **W**ill & **J**udgment resulting from the **Improperly Induced–Coercively Forced Plea** and the ***Mis-Advisement*** that was caused by the ***Unusual Extra Judicial Pressure*** for the plea that had been *obtained under duress* and from under ***Influence from implicitly and negotiated events*** at the July 15th, 2016 trial court hearing; ***And,*** **(2)** Was the defendant deprived of the right to a trial on the merits??? [***People vs. Marsden*** (1970) 2 Cal. 3d 118; ***People vs. Griggs*** (1941) 17 Cal. 2d 621 and ***People vs. Schwarz*** (1927) 201 Cal. 309, 314; ***Carter vs. Illinois*** (1946) 329 US 173]

12) When Ninety-Eight Point Nine Percent (98.9%) of the defendant's appeal deals with matters that are ***"Extrinsic"*** to the current Record on appeal and unless the record is Augmented to obtain the **Factual Missing Arguable Issues** from the court transcripts that are missing because Appoint Appellate Counsel fails to make the matter an Arguable Appellate Issue by making no reference to that part of the ***Silent devoid record***, Is the defendant's ***6th and 14th Amendments*** Violated by the Appointed Counsel for his failure to Request that the missing records be augmented so that the defendant would have been able to present [all] each and every issue that was raised and filed in the **CR-120 Notice of Appeal Form?????** (See, ***Ramirez v. US*** (9th Cir. 2005) 2015 US App. Lexis 15005; ***Haines v. Kerner*** (1972) 404 US 519, **HN 1,2**; ***In re Banks*** (1971) 4 Cal. 3d227, **HN 1,2,3**; ***Miller v. Pate*** (1967) 386 US 1, **HN2**, ***Entsminger v. Iowa*** (1967) 386 US 748, **HN1**; ***Lane v. Brown*** (1963 372 US 477; ***Carter vs. Illinois*** (1946) 329 US 173. 174-175; ***People v. Corona*** (1978) 80 CA 3d 684, **HN 1,2,5**)

13) Was the defendant denied an Equal Opportunity Protection under the Federal and State Due Process Clause to have his ***five (5) missing court trial dated transcripts produced*** as he requested to have them Augmentation for a appellate record that would permit a clear meaningful, effective presentation of his Indigent's Claims, like

all other Indigent Appellant's but with a Competent Appointed Appellate Counsel acting as an advocate on behalf of the Indigent**???** (See, i.e. ***People v. Feggans*** (1967) 67 Cal. 444; ***People v. Hyde*** (1958) 51 Cal. 2d 152 and ***Douglas v. California*** (1963) 372 US 353, 355.)

14) Was the defendant denied under the 14th Amend by the state to fulfill its duty to provide appellant with a complete and effective appellate record**?????**

15) Was the defendant deprived and denied any rights under the California's Independent Constitution**???** (See ***Johnson vs. Zerbst*** (1938) 304 US 458 at pg. 464; ***People vs. West,*** (1970) 3 Cal. 3d 595, 604-608; ***People v. Griggs*** (1941) 17 Cal. 2d 621; and ***People vs. Schwartz*** (1927) 201 Cal. 309, 314.)

16) Was the defendant put in any unfavorable appellate proceedings that were fundamentally unfair in contravention of the Due Process Clauses of the Federal Constitution**?????**

17) Was the defendant entitled under the U.S. Constitutions' **VI and XIV** Amendment to a competent appellate attorney and a record that would permit a meaningful presentation of appellate claims, and that by the attorney's failure to appreciate **or** correct the shortcomings of the record constituted the inadequate assistance of counsel on appeal??? **If so, (2)** Was the defendant deprived of a adequate competent active advocate from the assistance by the appointed appellate counsel by right under the **6th Amendment??? And (3)** Did this Court of Appeals' Decision conflict with the Court of Appeal's Decision in ***Blackledge v. Allison*** (1977) 431 US 63; ***People v. West*** (1970) 3 Cal 3d 595, 604-608; ***People v. Levey*** (1973) 8 Cal. 3d 648, 653; ***Davis v. Kramer,*** (9th Cir. 1999) 167 F.3d 494; ***Turner v. Duncan*** (9th Cir. 1988) 158 F.3d 449 ***US v. Griffy*** (9th Cir. 1990) 895 F.2d 561; ***People vs. Hackett*** (1995) 36 CA 4th 1297; ***In re Smith*** (1970) 3 Cal. 3d 192; ***People v. Pena*** (1972) 25 CA 3d 414, 423, **HN5; *Davis vs. State Bar*** (1983) 33 Cal. 3d 231; ***Griffin v. Illinois*** (1956) 351 US 12; ***Douglas v. Calif.***(1963) 372 US 353,355; ***People v. Hyde*** (1958) 51 Cal. 2d 152; ***Powell v. Alabama*** (1932) 287 US 45; ***CRC – Rule 12 or by Rule 10 (c); People vs. Gaston*** (1978) 20 Cal. 3d 476, 481-484 **fn.1, 4**; ***People v. Barton*** (1978) 21 Cal. 3d 513;***Hewitt vs. Helms*** (1983) 459 US 460 at p.466; ***In re Freeman*** (2006) 38 Cal. 4th 630 and ***Delzell vs. Day*** (1950) 36 Cal. 2d 349, **HN 3.**; ***In re Newborn*** (1959) 168 CA 2d 472,476; ***People v. Shambatuyer*** (1996) 50 CA 4th 267 **HN 4**; ***In re Johnson*** (1965) 62 Cal. 2d 325, 335; ***In re Smiley*** (1967) 66 Cal 2d 606; ***McMann v. Richardson*** (1970) 397 US 759 **N.14**; ***People vs. Green*** (2000) 81 CA 4th 463; ***Johnson v* US** (1966) 360 F.2d 844, 847; ***In re Birch*** (1973) 10 Cal. 3d 314, 319-320, 322; ***People v. Willard*** (2007) 145 CA 4th 1329.

18) Was the Defendant denied both of his Federal and State Constitutional Rights by the trial court's ruling denying **two (2) Demurrer Motions** because the defendant ***was not under actual*** Custodial Restraints from his ***July 16th, 1996*** sentence although

the defendant was under the restraints as a result of the **Collateral Consequences** from the **{*Predicate 1996 offense*}** that put the defendant under the Microscope of Parole, Bail and on O.R. Release all at the very same time**???** **(2)** Should both of the filed ***March 17th, 2016*** and the filed ***April 14th, 2016*** **Demurrer issues been addressed** pursuant to **[*Carafas vs. LaVallee*** (1968) 391 US 234, 237-242; ***Sibron vs. N.Y.*** (1968) 392 US 40; ***People vs. Succop*** (1967) 67 Cal. 2d 785, 789-790; ***In re Black*** (1967) 66 C. 2d 881, 886-887; **(a)** Because of the "disabilities **or** burdens [which] may flow from" petitioner's conviction, he has "a substantial stake in the judgment of conviction which survives the satisfaction of the sentence imposed on him." ***Fiswick vs. United States*** (1946) 329 U. S. 211, 222; **(b) 28 U.S.C. § 2243.** ***Parker vs. Ellis*** (1960) 362 U. S. 574 overruled. Pp. 391 U. S. 238-240; ***Nowakowski vs. Maroney*** *(1967)* 386 U. S. 542**]** based upon the two (2) signed bills by Governor Brown ***AB813*** **and** ***SB1134*** that amended the ***Cal. Pen. Code §1473 et seq.*** for filing. See also ***In re Dixon*** (1953) 41 C. 2d 756, 762-763].

19) In the most recent United States Supreme Court **Case No. 16-8255** ***McCoy vs. Louisiana*** (5-14-2018) Does the very same principles apply to a defendant on a direct appeal where counsel for the appellant does not follow the appellant's desires and ***deviates*** from what the defendant is appealing and from what a defendant has written out on his court filed ***[Notice of Appeal Form]*** that outlines the issues to be brought forth before the Court of Appeals**???** (See ***U.S. vs. Cronic*** (1984) 466 US 648; ***Davis vs. State Bar*** (1983) 33 C. 3d 231; ***Rojas v. Unknown*** (2017) 2017 US Dist. Lexis 75138, **Section-C;** ***Trevino v. Thaler*** (2013) 569 US 413; ***Martinez v. Ryan*** (2012) 566 US 1; ***Buck vs. Davis*** (2017) 137 S. Ct. 759; ***U.S. vs. Griffy*** (9th Cir. 1990) 895 F.2d 561; ***Cuyler v. Sullivan*** (1980) 466 US 335; ***In re Smith*** (1970) 3 Cal. 3d 192, 196; ***People v. Mendoza-Tello*** (1997) 15 Cal. 4th 264; ***People v. Pena*** (1972) 25 CA 3d 414; ***In re Hochberg*** (1970) 2 Cal. 3d 870; ***In re Andrew B.*** (1995) 40 CA 4th 825 **fn.14;** ***People vs. Corona*** (1978) 80 CA 3d 684; ***In re Banks*** (1971) 4 C. 3d 377; ***Delgado v. Lewis*** (9th Cir. 1988) 223 F.3d 976; ***Carter vs. Illinois*** (1946) 329 US 173; ***Turner vs. Duncan*** (9th Cir. 1988) 158 F.3d 449; ***Davis vs. Kramer*** (9th Cir. 1999) 1999 US App. Lexis 918; ***United States vs. Gonzalez-Lopez*** (2006) 547 US 140.)

20) Was it a "**F**undamental **M**iscarriage of **J**ustice" and a Violation of the defendant's Federal and State Constitutional Due Process Rights for the state appellate court Justices to not address the Appellant's arguments and complaints regarding the **["overt bias"]** Prosecutorial and Judicial Hostile Misconduct by the trial court's officers that materially affected [his] substantial rights as a party pursuant to **CCP §630.09 (a)(1)(3)** and under ***Post-Trial Motions*** §551.180 listed up under the Cal. Forms of Pleading and Practice Annotated (i.e. ***Miller vs. Pate*** (1967) 386 US 1 **N2.**)

21) Was the defendant denied any **S**ubstantial rights when he filed a Habeas Corpus Writ Petition to be heard concurrently with the opening brief to argue the ***extrinsic merits*** inside of the four corners of a completely missing ***Record*** on the matters of **Pen Code** §1203.72 *"Consideration of Probation Report"*; also regarding **No!!!**

Factual Basis (***People vs. Willard*** (2007) 154 CA 4th 1329) existed for the {*Under Duress Coerced Plea*}; An Invalid "*Cruz Waiver*" extracted by the trial court (***People vs. Herbert*** (2007) 156 CA 4th 1114, **HN 1, 2**); Appellant's challenge to the Validity of the ill-gotten plea itself (***Gall vs. U.S.*** (2007) 522 US 38; ***People vs. Munoz*** (2006) 138 CA 4th 860, 866, 871) and the **Improper Denial to discharge retained counsel** (***Chapman vs. Calif.*** (1967) 386 US 18, 23) when the defendant's appointed counsel on appeal would not file any Writ Petition in the defendant's behalf that could have satisfied the Federal Constitutional Standards but, instead abandoned the defendant during the direct appeal from the denial of a ***Certified of Probable Cause Motion*** that the trial court jurist didn't want to allow access to the court proceedings transcripts???

22) When Ninety-Eight Point Nine Percent **(98.9%)** of the defendant's appeal deals with matters that are ***"Extrinsic"*** to the current Record on appeal but Counsel for the Defendant on Appeal does not Augment the record to obtain the **Factual Missing Arguable Issues** from the trial court transcripts that are missing due to the Appointed Appellate Counsel failure to make the matter an Arguable Appellate Issue by making no reference to that part of the Silent devoid record, Is the defendant's ***6th and 14th Amendments*** Violated by the Appointed Counsel for his failure to Request that the missing records be augmented so that the defendant would have been able to present **[all]** each and every issue that was raised and filed in the ***CR-120 Notice of Appeal Form?? Was this Prejudicial to an*** **Appellant?? (2) Was** the defendant's **6th and 14th Amendments** Violated by the Appointed Appellate counsel for his failure in not filing the proper writ petition on the defendant's behalf that should have addressed the ***missing extrinsic issues*** of the defendant's appeal that dealt with the matters that were *"Extrinsic to the four Silent Devoid Corners from a Verbal Motion to Vacate a Plea"* during the trial court proceedings??? **(See, *Davis v. Kramer,*** (9th Cir. 1999) 167 F.3d 494; ***Turner v. Duncan*** (9th Cir. 1988) 158 F.3d 449 ***US v. Griffy*** (9th Cir. 1990) 895 F.2d 561; ***People vs. Hackett*** (1995) 36 CA 4th 1297; ***People v. Pena*** (1972) 25 CA 3d 414, 423, **HN5**; ***Griffin v. Illinois*** (1956) 351 US 12; ***Douglas v. Calif.*** (1963) 372 US 353, 355; ***People v. Hyde*** (1958) 51 Cal. 2d 152 and ***Powell v. Alabama*** (1932) 287 US 45.)

23) Was the defendant abandoned on direct appeal by his court appointed appellate counsel when the defendant wrote and gave every arguable issue to his counsel to raise and file a perfected writ for proper appellate review ***but*** when the appointed counsel ***deviates*** from what the defendant is appealing from does the matter turn into a **"IAAC"** Claim issue (***Strickland vs. Washington*** (1984) 466 U 668, 692) against the appointed appellate counsel??? (See, ***People vs. Gzikowski*** (1982) 32 Cal. 3d 580, 586; and ***People vs. Ramirez*** (2006) 39 Cal. 4th 398, 423.)

24) When a defendant on direct appeal has a multiple (triple) layers of ill will help from court appointed non-effective assistant of counsel claims **(IATC's)** that arise at various levels in his Judicial Proceedings (including with appointed appellate counsel) and the complete case file is "silent to the records on the matters" is it a "**F**undamental

Miscarriage of **J**ustice" in violation of a Defendant's right to Due Process and Equal Protection of both the Federal and State Constitution whereby the appointed counsel on appeal ***refused to not Augment the Record*** **???** And, **(2)** Was the Defendant ***Prejudice*** when the appellate court Justices' abuse their discretion to dismiss the defendant's request for a Petition for a Habeas Corpus **rather than to consolidate the petition** with the defendant's direct appeal as cited in "***People vs. Mendoza-Tello*** (1997) 15 Cal. 4th 264**??**" without Ordering the Trial Records to be Augmented**???**

25) Is a defendant denied a Due Process right to have a Habeas Corpus Petition filed concurrently with his direct appeal by his appointed appellate counsel when the issues and facts that warrants' the filing for the petition are surrounded by issues being **[e]xtrinsic** from the trial court transcripts because the transcripts ***were not augmented*** **(devoid-missing)** in order to raise the defendant's issues **Re:** (1) Ineffective Assistance of Trial Counsel; (2) Breach of the Original 1996 Plea Bargain; (3) Actual and Factual Demonstrably Innocence, (4) Failure to give Advisement about the Constitutional Rights – Prior to **or** after obtaining an Induced Plea **and (5)** Where No**!** Reports Exists in the court records for a Factual Basis (**e.g. Probation, Police Report etc.**) Is this a Prejudicial and Fundamental Miscarriage of Justice in Violation of the Defendant's Due Process Rights and Equal Protection under the Color of Law on the procedural level as a Violation of the State Govern Statute under the ***Cal Penal Code*** **§§1192.5** subds **(1)(2) and (3),** and **§1192.6** subds **(a) & (c).** See, ***People vs. Dobbins*** (2005) 127 Cal.App.4th 176, 180; ***Rule 4.411*****(c)** provides: "The court **[Shall]** order a supplemental probation officer's report in preparation for sentencing proceedings that occur a significant period of time after the original report was prepared." **§1203, subd (b)(4)** ***Reversal is a Must.***

26) Is a Defendant denied the Guaranteed Federal and State Constitutional Rights of Due Process when the ***California Appellate Project*** who appoints the Appellate Counsel on Appeal ***Denies*** that Appellate Counsel the a right to file a Habeas Corpus Petition for the Defendant without getting permission to do so by their office first**??? And, [If So], (2)** by [D]enying a Writ Petition to be filed on behalf of a Defendant **[d]oes** it foreclose this proper vehicle to be use as an opportunity for a defendant to put forth an *adequate presentation* of his **[extrinsic four corner issues]** from the trial court into the appellate district court, and the Supreme Court of California to determine and make a conclusive determination of factual issues outside of the record already not presented in a direct appeal for a layman**???** (***Blackledge vs. Allison,*** (1977) 431 US 63, 71-83; ***Harris vs. Nelson,*** (1969) 394 US 286; ***Townsend vs. Sain*** (1963) 372 US 293, 295-322; ***US vs. Carter*** (4th Cir 1972) 454 F.2d 426, 428; ***People vs. Sumstine*** (1984) 36 C. 3d 909, 920 **HN 10.** ***Cal. Const. Art. I, Sec. 7, subd (a) (b); Cal. Pen. Code*** **§§1002 - 1010;** ***People vs. Trujillo*** (2016) 244 CA 4th 106; ***People vs. Barton*** (1978) 21 C. 3d 513, 517-518; ***Entsminger vs. Iowa*** (1967) 386 US 748, **HN1;** ***People vs. Monaghan*** (1894) 102 C. 229; ***People vs. Goldman*** (2014) 225 CA 4th 950; **CRC-Rules** 8.860-8.861 **subds** (2)(3)(8)(12)(A) **and CRC-Rules** 8.865 - 8.867

27) Was the defendant Prejudice by the totality of events when the Justices in **Div. One** of the Second Appellate District Court decision to deny the defendant's Writ Petition without comment conflict with the Court of Appeal's decision in **People v. Pena** (1972) 25 CA 3d 414; **People v. Mendoza-Tello** (1997) 15 Cal. 4th 264; **In re Smith** (1970) 3 Cal. 3d 192, 196; **In re Andrew B.** (1995) 40 CA 4th 825 **fn.14** and **Delgado v. Lewis** (9th Cir. 1988) 223 F.3d 976) on the very same identical issues**???**

28) When a defendant is seeking relief as a **"class of one"** under traditional Equal Protection Analysis and when the appeal record **[is both]** Silent **and** Devoid of post historical facts, **Is it still** a "**F**undamental **M**iscarriage of **J**ustice" and a Violation of a defendant's Federal and State Constitutional Due Process Rights for the state appellate court Justices to not address the Equal Protection issues raised by the defendant by & through a Habeas Corpus **or** Mandate Petition**???** (***Willowbrook vs. Olech*** (2000) 528 US 562, 564; and ***SeaRiver Martime vs. Mineta*** (9th Cir. 2002) 309 F. 3d 662.)

29) When a defendant raises his long standing claim of his "**A**ctual and **F**actual **I**nnocence" and offers proof that he can demonstrably prove his **F**actual **I**nnocence without the help from the ***[Devoid Silent Record]*** on Direct Appeal, was it ***Prejudicial*** and another "**F**undamental **M**iscarriage of **J**ustice" and a Violation of the defendant's Federal and State Constitutional Due Process Rights for the state court Justices' to refused to ***"Take a Second Look"*** as required in ***McQuiggin vs. Perkins*** (2013) 133 S. Ct. 1924.

30) **Did** the State of California Court of Appeal and the California Supreme Court fail to ensure that the Defendant be provided with his basic tools for an adequate defense on appeal **as required under the** 6th **&** 14th Amend of Due Process **&** Equal protection to provide the Trial Transcripts as ruled in ***People vs. Reese*** (2017) in case **S230259** (**see *Exhibit*-C, herein**) (See, ***Britt v. North Carolina*** (1971) 404 US 226, 227 and ***People v Hosner*** (1975) 15 Cal. 3d 60) for the ***Augmentation*** of the Trial Court Records**???**

31) Was the defendant denied an Equal Opportunity Protection under both the State and Federal Constitution when he filed a Writ Petition for Review to the States' high court **Re:** Ineffective Assistance of Appellate Counsel for Counsel's Failure to raise the Plethora of Arguable Issues by Habeas Corpus due to ***missing court transcripts*** (See ***CRC – Rule 12 or by Rule 10 (c) under People vs. Gaston*** (1978) 20 C. 3d 476, 481-484 **fn.1, 4**) that were not provided on Direct Appeal**??? And, if so (2)** was it ***Prejudicial to the Defendant*** when the "Supreme Court of California" cause further Prejudicial Miscarriage of Justice when it failed to address this core issue raised by the defendant **Re:** Ineffective Assistance of Appellate Counsel on Direct Appeal by way of Habeas Corpus Petition from counsel failure to augment the trial court record. (See, ***Rojas v. Unknown*** (2017) 2017 US Dist. Lexis 75138; ***Trevino v. Thaler*** (2013) 569 US 413; ***Martinez v. Ryan*** (2012) 566 US 1; ***Delgado v. Lewis*** (2000) 223 F.3d 976; ***In re Hochberg*** (1970) 2 C. 3d 870 and ***Ramirez v. US*** (9th Cir. 2015) 799 F.3d 845.)

P.G. Heven

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:

1) **Governor Gavin Christopher Newsom,** State of California Capital Building Room 1173, Sacramento, California 95814

2) **Attn. Xavier Becerra** – Atty. General's Office, 300 S. Spring St. 1st. Floor Los Angeles, California 90013

3) **Supreme Court of California,** 350 McAllister Street, Room 1295, San Francisco, California 94102-4797

4) **Second Appellate District Court,** Ronald Reagan Building, 300 S. Spring Street, 2nd Floor – North Tower, Los Angeles, California 90013-1204

5) **Los Angeles Superior Court-LASC,** 210 W. Temple Street, Clerk's Office Los Angeles, California 90012

6) **Los Angeles District Attorney's Office,** 210 W. Temple Street, District Attorney's Office, Los Angeles, California 90012

7) **Briand Williams, c/o BRB WMS-LOGAN-ESQ.,** 9025 Wilshire Blvd. **Penthouse Suite 500, 5th Floor,** Beverly Hills, California 90211-1867

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STATUTES AND RULES

CCP §630.09 (a)(1)(3) and under ***Post-Trial Motions*** §551.180 listed up under the Cal. Forms of Pleading and Practice Annotated
Pen Code §1203.72 *"Consideration of Probation Report"*
***Cal Penal Code* §§1192.5** subds **(1)(2) and (3),** and **§1192.6** subds **(a) & (c).**
***CRC – Rule 4.411*(c);**
Pen Code §1203, subd (b)(4);
***Cal. Pen. Code* §§1002 - 1010;**
CRC-Rules 8.860-8.861 **subds** (2)(3)(8)(12)(A) **and CRC-Rules** 8.865 -8.867

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People vs. Smith, (1970) 3 Cal. 3d 192.

STATUTES AND RULES
Pen. Code §17 subd. (b)(1);
Pen. Code *§ 1203, subd. (a);*
Cal. PC §290.018 subd. **(K)** which is now under subd. **(L)**
The Law Revision Commission's Reference to the Model **Pen. Code §1.06 subd (5)**

OTHER
The ***California Money Bail Reform Act.***

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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.

[X] 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,
[X] is unpublished.

The opinion of the **SECOND APPELLATE DISTRICT COURT** court appears at Appendix **B** to the petition and is

[ ] reported at_____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] 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 **Dec. 12th, 2018**. A copy of that decision appears at Appendix **A**.

[ ] 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

Statute of Limitations (1935) 23 Cal. L. Rev. at pp 525-527;

United States Constitutions' **VI Amendment**
United States Constitutions' **XIV Amendment**
United States Constitutions' **XIII Amendment**

Cal. Const. Art. I, Sec. 7, subd (a) (b)
California Constitution Article I, §13 & §15 & §17

AB813 **and** ***SB1134*** **Reference to** ***Cal. Pen. Code §1473 et seq***

STATEMENT OF THE CASE

The Appellate Court Judges, Erred in their decision when they stated that ***'they affirm the trial court's May 8th, 2017 order'*** and furthermore these same Judges of the Second Appellate District Court in Division One, did not give accurate and complete background case information pertaining to the Defendant, Briand Williams, within their opinion and so now the defendant will show and tell the accurate history of events with copies of documentation for this reviewing court to look at for themselves and follow along.

What the Appellate Court Judges did was **ONLY** review and look at what was **ONLY** presented before them in the appellate case file ***[on appeal]*** only for **BA443387** which did not in any way include all of the ***Missing Transcripts*** **or** filed Court documents from the various events on the dates listed within ***B289847*** based off of the **NOTICE OF APPEAL CR-120 FORM** filed by the defendant on ***June 1st, 2017.***

BACKGROUND

Back on ***July 16th, 1996,*** the Petitioner, **BRIAND WILLIAMS,** did enter into a Plea Agreement with the District Attorney's Office through his court appoint attorney from the County of Los Angeles Public Defender's Office name ***John M. Martinez,*** SBN #69161 in ***Case No. BA130843*** to One (1) Count to a Charge of PC **§261.5(c)** for time-serve with credit of 416 day to a misdemeanor ***[wobbler]*** charge; to three (3) yrs formal probation, and to pay a $200.00 Fine, Obey all laws and attend school **or** work and stay out of trouble. No! Suspended Prison sentence was given. (i.e. See ***Pen. Code §17 subd. (b)(1); People v. Hamilton*** (1948) 33 Cal. 2d 45, 49 [198 P.2d 873]; **Pen. Code *§ 1203, subd. (a);*** ***People vs. Glee*** (2000) 82 Cal. App. 4th 99, 102-103, 105-106; ***People v. Bishop*** (1992) 11 Cal. App. 4th 1125, 1130 [15 Cal. Rptr. 2d 539]; ***People v. Disibio*** (1992) 7 Cal. App. 4th Supp. 1, 6 [9 Cal. Rptr. 2d 20]; ***City of Victorville v. County of San Bernardino*** (1991) 233 Cal. App. 3d 1312, 1314 [285 Cal. Rptr. 206].

On ***August 4th, 1998*** a progress follow-up probation hearing was held to see how Petitioner was doing. Probation was continued on the same terms and conditions as were placed upon the Petitioner.

On ***July 16th, 1999*** the Petitioner, herein had completed the full three (3) year of formal probation under the terms and conditions without any issues. (See, **Cal. PC §290.018** subd. **(K)** which is now under subd. **(L)** In the 2017 Penal Code Book) (See Petitioner's complete case history under USDC CV-11-08232; CV-12—05824 **and** CV-16-1384 for all events, references and prior outcomes.)

On ***October 28th, 2010*** Petitioner, was charged with a violation of PC §290.012(a) for a dismissed 1996 **Case No. BA117193,** under ***Case No. BA337243,*** even though this was not possible pursuant to the **Cal. PC §290.018** subd **(K)** which is now under subd **(L)** In the 2017 Penal Code Book. (See Petitioner's complete case history under USDC CV-11-08232; CV-12—05824 **and** CV-16-1384 for all

events, references and prior outcomes.) Petitioner lost the trial on March 14th, 2011 in Case Number BA337243 **and** [***was not ordered by the court trial Judge*** **Clifford L. Klien** to register for any charge(s) back on ***October 5th, 2012.***] (See **Exhibit–D within the Cal. S. Ct.)**

On ***August 2nd, 2011*** DDA Brentford J. Ferreira, SBN #113762 Deputy-in-Charge over the Writ of Habeas Corpus Litigation Team had made a Judicial Admission under the penalty of perjury to the trial court on paper by stating Quote: "{***In the instance case, we, have No! Transcripts of the sentencing hearing. None, could be found in the court's file or the District Attorney's file. Nor is there evidence of any minute order reciting an advisement by the court of the registration requirement. There is nothing in the probation report putting Petitioner on Notice of the Registration Requirement***}" as a condition of the ***July 16th, 1996*** plea agreement. (See, ***People vs. Trausch*** (1995) 36 Cal. App. 4th 1239, 1243, 1246.) See ***Exhibits*** – **B & C within the Cal. S. Ct.** and cross reference them to both Case Nos. ***B289847*** **and** ***S249150.***

On ***November 16th, 2012*** Petitioner, was arrested by LAPD ***(Report Dr. #121225946)*** and was charged again with ***Case No. BA404996*** for the same type of alleged violation from 2010 but the ***[charge was dismissed]*** on ***January 29th, 2016*** and was then was re-filed **after the** Statute of Limitation had ran out by three (3) yrs, three (3), month and fifteen (15) days for the re-filed ***Case No. BA443387*** but not in ***Case No BA432281*** for the same one charge, which was dismissed ultimately.

By the time this case was also wrongly filed against the defendant he had gotten some copies of some paperwork from the Law offices of Correa & Associates whom had sent an investigator to pull the actual files back in 2012 and this was how the defendant had discover that the charge of **§261.5(c)** that he had plead to, **[It]** ***had not been corrected*** **in the court's hardcopy file** even though he had long ago finished three (3) full formal years of probation and had never had to register for anything pursuant to the **Cal. PC §290.018** subd **(K)** which is now under subd **(L)** In the 2017 Penal Code Book ***or else*** he would ***not have been able to complete*** the probationary period without any issues as if, he had actually been convicted of that arresting charge. **(**See, **Exhibit-E, within the Cal. S. Ct.)** And cross reference this exhibit to both Case Nos. ***B289847 & S249150.***

On or about ***January 29th, 2016*** two (2) differently never seen before charges were being filed after the Statute of Limitations outside of ***Pen. Code*** **§804 (c);** in clear violation of ***Penal Code*** **§1009;** and there was **No!** Signed Probable Cause Determination (Declaration); although this was a new re-filed Case No #BA443387 from BA404996 *the clock to prosecute had began back on* ***November 20th, 2012*** when the defendant had Originally been wrongfully charged ***over three years prior,*** *When now the New Felony Complaint on its face indicated that the action was time-barred.* The Trial court was [immediately without Jurisdiction to prosecute the case at all]. **(*The Law Revision Commission's Reference to the Model Pen. Code* §1.06 subd (5)).**

On ***March 17th, 2016 and April 14th, 2016*** Petitioner had filed two separate Demurrers to address the Statute of Limitation matter yet at each stage on *March 29th, 2016* before the Preliminary Hearing the ***First*** Demurrer was denied without defendant being given any reason by the Preliminary Hearing Jurist before the Prelim hearing took place that day and again on *June 1st, 2016* the ***Second*** Demurrer was also denied by the trial court Jurist without any reason what so ever on the court records.

In between the dates above the following events took place. On ***April 12th, 2016*** Defendant appeared in superior court on a one count filed new information with a new different charge also than what he was facing after the preliminary hearing two weeks prior. Arraignment was delayed for two days until April 14th, 2016.

On ***April 14th, 2016*** Defendant is remanded and bail is revoked for not bringing in proof of registration. In the Extortion to keep his freedom his $75k bail has now been doubled to $150k at the request of DDA Louis Parise since the Defendant would not accept his Time Serve Plea Bargain Offer again.

On or about ***April 18th, 2016*** Petitioner's court appointed trial counsel Brent Howard Merritt, SBN #165479 files a consolidated Writ of Error of Coram Nobis Petition along with a Petition for Writ of Habeas Corpus prior to the signature of Governor Edmund Gerald Brown, Jr. for both bills **AB813** and **SB1134** which amended the California Penal Code Section that governs the complete Writ of Habeas Corpus, specifically Penal Code **§1473.7**

On ***April 22nd, 2016*** Defendant is brought to court via the Los Angeles County Sheriff's Department wheelchair lift bus to hear DDA Louis Parise give his Oral Argument to the defendant's second filed demurrer.

On ***April 23rd, 2016*** Defendant posted the $150K new bail after Judge Mader unlawfully revoked the prior posted arraignment bail of $75K without just cause.

On ***May 5th, 2016*** Defendant files an **EMERGENCY IMMEDIATE ACTION REQUEST WRIT PETITION** in the Supreme Court of California to stop the threat of further Bail being revoked without any Changes in Circumstances. Case **S234319.**

On ***May 11th, 2016*** Defendant files his Demurrer reply while out on the new bail but **is not** remanded into custody because DDA Louis Parise is not in court on that day. This is clearly a Conspiracy between Judge Katherine Mader and DDA Louis Parise.

On ***June 1st, 2016*** Defendant's bail is revoked again and is doubled up from $150K to $300K because DDA Parise returned back to work. The Defendant files another **EMERGENCY IMMEDIATE ACTION REQUEST WRIT PETITION** in the Supreme Court of California to seek his immediate Release. Case Number **S235307** was then crossed referenced to the then Pending Case **S234319.** The Defendant's Demurrer was denied before being remanded back into custody. The Judge refuses to give any

reason on the record. On ***June 29th, 2016*** the Supreme Court of California issued an **"OSC"** on behalf of the Defendant's Bail Revoking Issue **Citing: *Gray vs. Sup. Ct.*** (2005) 125 CA 4th 629, 643 – 644. (See, **Exhibits – F and G, within the Cal. S. Ct.**)

On ***July 14th, 2016*** Defendant's Counsel Gary S. Casselman came down to the Los Angeles County Jail Twin Towers and advised him that his landlord was looking to high jack his property, box it up supposedly because he was under the personal impression that Defendant had abandoned his apartment, although Mr. Casselman had been in constant communications with Defendant's Landlord for the beginning of this illegal bail revocation scheme by the court and the DA from day one, and that the advice from him as an attorney was to get out and continue the fight from the outside of the jail in order to avenge the wrong that kept being bestowed upon (me) his client.

Defendant was further advised by Mr. Casselman, that if he (I) **did not take** the time serve deal (the next day) tomorrow [and] since the State Supreme Court had just issued an "OSC" on the Bail Revoking issue; [A]ll that the DA's office was just going to do was Prolong the Bail Hearing so that the Defendant's trial would run up on him more sooner than later so that way it would become a "Moot" issue and **[it would not]** have to be addressed and the Defendant could still end-up losing his complete home in trying to fight the system from behind bars. The understanding at the end of it all was that Counsel was to come in on the record tomorrow, in Dept. 117, work his years of magic and obtain the Defendant's Immediate Release.

On ***July 15th, 2016*** Attorney, Gary S. Casselman, takes over the case in People vs. Williams, **BA443387** and although Defendant contends that he unwillingly plead **under duress** to the induced plea to get his freedom by thru the advice of an advocate, it was still **"[e]xtortion"** by both Judge Katherine Mader and DDA Louis Parise and that the **bullying** even continued during the undesired plea hearing and that the **mental anguish** that he (I) was put through and is still going through to this day; even long afterwards, it is a result from losing his home, property and having nowhere to this day to live but out in the streets in his wheelchair among the ruins of the once comfortable life that so many others on the mean and dangerous streets of Los Angeles probably once held until some tragic event brought them down too.

Between Defendant's release on July 16th, 2016 and his ***surrender to authorities*** on ***April 11th, 2017*** Defendant further contends that he just did not unwillingly come back to court on August 31st, 2016 as Judge Mader was unconvinced didn't take his version of events with a grain of salt and that Mr. Casselman, threw him under the bus because he himself knew exactly where the defendant was at on the prior scheduled sentencing day and why. (See, **Attached Declaration** of Gary S. Casselman, **Exhibit –H, within the Cal. S. Ct.**)

Defendant, believes that if his potential replacement for Mr. Casselman ***[had not called]*** Mr. Gary S. Casselman for whatever [his reasons may have been] that Casselman would have actually made and argued the Motion to Withdraw the Plea. (See, **Exhibit - I, within the Cal. S. Ct.**)

Judge Mader, denied the Defendant his ***Guaranteed 6th Amend Right*** to counsel of his choice and that requires reversal. (See, ***People vs. Hernandez*** (2006) 139 CA 4th 101 and ***People vs. Munoz*** (2006) 138 CA 4th 860.) (See, **Exhibits – J and K, within the Cal. S. Ct.**)

ARGUMENT

I

The Court Should Grant Review to Resolve the Conflict
Between the Opinion of the Court of Appeal In this case
With any other Opinions in of the Court of Appeals in
The State of California

A grant of review in this case is necessary to secure uniformity of decision, within the meaning of **Rule 29(b)** between the Opinions in this case and the conflicting Opinions of the Court of Appeals for the other California District Appellate Courts **Re:**

"Is a Defendant guaranteed his 6th Amendment Right to Hire and Relieve Private Counsel of his own choice without interference from the Trial Court Judge?"

Does this Court of Appeal's decision to uphold appellant's conviction conflict with the Court of Appeal's decisions in ***People vs. Hernandez*** (2006) 139 Cal. App. 4th 101, 109; ***People v. Munoz*** *(2006)* 138 Cal. App.4th 860; ***United States vs. Gonzalez-Lopez*** (6-26-2006) 548 US 140; ***Chapman vs. California*** (1967) 386 US 18, 23; ***Cuyler vs. Sullivan*** (1980) 466 US 335; ***People vs. Gzikowski*** (1982) 32 Cal. 3d 580, 586; ***People vs. Ramirez*** (2006) 39 Cal. 4th 398, 423; **Code of Civil Procedure §284** subd. **(2)**; ***People vs Ortiz*** (1990) 51 Cal. 3d 975; ***People vs. Marsden*** (1970) 2 Cal. 3d 118 and ***Gall vs. US*** (2007) 522US 38.

ARGUMENT

II

The Court Should Grant Review to Resolve the Conflict
Between the Opinion of the Court of Appeal In this case
With any other Opinions in of the Court of Appeals in
The State of California

A grant of review in this case is necessary to secure uniformity of decision, within the meaning of **Rule 29(b)** between the Opinions in this case and the conflicting Opinions of the Court of Appeals for the other California District Appellate Courts **Re:**

"Where the Question of Contracts, Jurisdiction, Plea Bargain and the Statute of Limitations under Cal. Pen Code §§800, 801, 802 and §804 come into question, Can *a Defendant be held to a Plea Bargain where* ***duress, [extrinsic causes] fear, threats, coercion, bullying and intimidation using these strong-arm tactics of persuasions which can overcome the exercise of a defendant's free judgment and where the Statute of Limitations has long ran out, is*** **the oral contract (plea) still enforceable???"**

Does this Court of Appeal's decision to uphold appellant's conviction conflict with the Court of Appeal's decisions in ***People v. Brice*** (1988) 206 CA3d 111, *"Thus , at the time of trial, the prosecution could no longer amend the information to allege a violation of PC §32."..... "More than three years thereafter expired before the commencement of trial or any event which could be considered [***10] as subjecting defendants to a charge of accessory to murder in violation of section 32" of the Pen C.;* ***People v. McGee*** (1934) 1 Cal. 2d 611,613; ***In re Davis*** (1936) 13 CA 2d 109,111; ***People v. Crosby*** (1962) 58 Cal. 2d 713,724-725; ***People v. Rose*** (1972) 28 CA 3d 415 417; ***In re Demillo*** (1975) 14 Cal. 3d 598; ***Kellett v. Sup. Ct.*** (1966) 63 Cal. 2d 822; ***Sanders v. Sup. Ct.*** (1999) 76 CA 4th 609,617; ***People v Chapman*** (1975) 47 CA 3d 597; ***People v. Angel*** (1999) 70 CA 4th 1141; ***People v. Lynch*** (2010) 182 CA 4th 1262.

ARGUMENT

III

The Court Should Grant Review to Resolve the Conflict
Between the Opinion of the Court of Appeal In this case
With any other Opinions in of the Court of Appeals in
The State of California

A grant of review in this case is necessary to secure uniformity of decision, within the meaning of **Rule 29(b)** between the Opinion in this case and the conflicting Opinions of the Court of Appeals for the other California District Appellate Courts **Re: "*Is the Defendant entitled to Withdraw his Plea*** because of **J**udicial **P**ressure of **D**uress, **F**raud and the fact of **O**verreaching of the **D**efendant's **F**ree **W**ill and **J**udgment. Which were **Improperly Induced–Coercively Forced** and the ***Mis-Advisement*** that had been caused from the ***Unusual Extra Judicial Pressure*** for the plea that had been taken *under duress and from under* ***Influence from implicitly and negotiated events???***

Does this Court of Appeal's decision to uphold appellant's conviction conflict with the Court of Appeal's decisions in ***People vs. Williams*** (1969) 269 CA 879, HN5, 6; ***People vs. Schwarz*** (1927) 201 C. 309, 314; ***People vs. Griggs*** (1941) 17 Cal. 2d 621; ***People vs. West,*** (1970) 3 C. 3d 595, 604-608 and ***Cal. Const. Art. I, Sec. 7, subd (a) (b)***

ARGUMENT

IV

The Court Should Grant Review to Resolve the Conflict
Between the Opinion of the Court of Appeal In this case
With any other Opinions in of the Court of Appeals in
The State of California

A grant of review in this case is necessary to secure uniformity of decision, within the meaning of **Rule 29(b)** between the Opinions in this case and the conflicting Opinions of the Court of Appeals for the other California District Appellate Courts **Re:**

"Where a Probation Report has been requested in the Preliminary stages of a Criminal Proceedings, but the Defendant is not sentenced for well over three year later, **[Is]** it a erred ***Due Process Violation*** to use the Original Probation report for a Factual Basis??, And, if so **(2)** is a Defendant entitled to have a newly revised report Completed pursuant to the ***Cal. Pen. Code*** **§§1192.5 subds (1)(2)(3); §1192.6 subds (a)(b) & §1203 et seq. prior to being sentenced by the trial court"**

Does this Court of Appeal's decision to uphold appellant's conviction conflict with the Court of Appeal's decisions in ***People v. Tumilty*** (2016) F070117 Fifth Appellate Dist. ***People vs. Bohannon*** (2000) 82 CA 4th 798, 808; ***People vs. Tang*** (1997) 54 CA 4th 669, 677; ***People vs. Valdiva*** (1960) 182 CA 2d 145, 148; ***People vs. Welch*** (1993) 5 Cal. 4th 228, 234; ***People vs. French*** (2008) 43 Cal. 4th 36; ***Blakely vs. Washington*** (2004) 542 US 296 at p. 310. **CRC Rule 4.411(c)** provides: "The court **shall** order a supplemental probation officer's report in preparation for sentencing proceedings that occur ***a significant period of time after the original report was prepared.***" The preparation of a report may be waived ***only by a written stipulation*** of the prosecutor ***and*** defense counsel that is filed with the court **or** ***an oral stipulation in open court that is made and entered into the minutes***. **(§1203, subd. (b)(1)(4))** On ***May 8th, 2016*** The Defendant was never verbally told **or** had actually been denied Probation nor was he found to be ineligible. The trial court Judge had Violated both of the Defendant's Due Process **and** Equal Protection Rights up to sentencing and after sentencing.

ARGUMENT

V

The Court Should Grant Review to Resolve the Conflict
Between the Opinion of the Court of Appeal In this case
With any other Opinions in of the Court of Appeals in
The State of California

A grant of review in this case is necessary to secure uniformity of decision, within the meaning of **Rule 29(b)** between the Opinion in this case and the conflicting Opinions of the Court of Appeals for the other California District Appellate Courts **Re:** "When a Defendant has raised a Ineffective Assistance of Trial Counsel Claim by way of Direct Appeal and Habeas Corpus and the Appointed Appellate Counsel refuses to raise the **IATC** issues on the Defendant's behalf to preserve for Federal Review, Does this now make the Appellate Counsel Ineffective as well under the very same formula and principles where now on appeal the Appellate Attorney does not follow the defendants' desires and s/he ***Deviates*** from what the defendant is appealing and from the merits of what s/he has written out on the court filed ***[Notice of Appeal Form]*** that outlines the issues to be brought forth before the Court of Appeals**???**"

Does this Court of Appeal's decision to uphold appellant's conviction also conflict with the United States Supreme Court **Case No. 16-8255** ***McCoy vs. Louisiana*** (2018)

Any Denial for an Evidentiary hearing by any Court of Review will always have a ***Prejudicial Miscarriage of Justice Chill Effect*** and that negative effort to grant one can **[n]ever** be deemed a harmless error. There **[MUST]** be a sound peace of mind for the prejudice party, the defendant. **This Judgment is Invalid and should be Reverse and Void**.

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- The right to proceed with retained counsel of choice is fundamental
- If the court erred, appellant does not need to show prejudice
- The court erred here:
    - Appellant requested a Marsden hearing
    - He had retained counsel
    - It was clear he meant he was moving to remove retained counsel
    - He expressed dissatisfaction with his retained counsel
    - The motion was denied

Trial court has **limited discretion** to deny such a motion (less than a Marsden)

(1) would cause significant prejudice to the defendant, e.g., by forcing him to trial without adequate representation, **OR**
(2) is untimely *and* would result in . . . disruption of the orderly processes of justice unreasonable under the circumstances of the particular case."

- The request was not untimely.
- It was made prior to sentencing
- It was not an unreasonable request
- There was no jury waiting in the wings
- There were no witnesses that would have to be ordered back
- It appeared to have no basis other than because the court was annoyed with appellant
- First request to discharge counsel
- Appellant expressed dissatisfaction with counsel for, apparently, having failed to inform the court of the reason for his failure to appear at the previous hearing.
- absence on the prior hearing date.
- **The record is bereft of any basis on which to deny the motion**

No certificate of probable cause is required

- The error was the denial of the motion for new counsel
- That occurred before the motion to withdraw the plea
- Appellant is not attacking the validity of the plea
- There is therefore no requirement of a CPC
    - "A determination that defendant is entitled to substitute counsel has no necessary implication for his no contest plea, which plea stands until a motion to withdraw it is made and granted." (People v. Vera (2004) 122 Cal.App.4th 970, 977-978.)

Conclusion
Appellant has to be put back in exactly the place he was when the violation occurred Prior to his motion to withdraw his plea.

POINTS AND AUTHORITIES

In ***People v. Ortiz*** (1990) 51 Cal.3d 975 [275 Cal.Rptr. 191, 800 P.2d 547] (*Ortiz*), we held that with regard to *discharging* a retained attorney, **a defendant need not demonstrate either that** counsel "**is providing inadequate representation** [citations], **or that he and the attorney are embroiled in irreconcilable conflict** [citation]." (*Id.* at p. 984.) That standard, rather, is applicable when a defendant seeks substitution of appointed counsel. (*Ibid.;* see ***People v. Marsden*** (1970) 2 Cal.3d 118, 84 Cal.Rptr. 156, 465 P.2d 44.) Consistent with the **Sixth Amendment right to counsel,** a defendant may discharge *retained* counsel "**with or without cause.**" (*Ortiz, supra,* at p. 983.) In order to ensure effective assistance of counsel, a nonindigent defendant is accorded the right to discharge his retained attorney: 'the attorney-client relationship . . . involves not just the casual assistance of a member of the bar, but an intimate process of consultation and planning which **culminates in a state of trust and confidence between the client and his attorney.** This is particularly essential, of course, when the attorney is defending the **client's life or liberty.** [Citation.] Thus, we conclude that the right to counsel of choice reflects not only a defendant's choice of a particular attorney, but also his decision to discharge an attorney whom he hired ***but no longer wishes to retain.***" (*People v. Ortiz, supra,* 51 Cal.3d at p. 983, fn. omitted.) See, also ***People vs. Hernandez*** (2006) 139 Cal. App. 4th 101. 109; ***Cuyler vs, Sullivan*** (1980) 466 US 335 and ***Gall vs. US*** (2007) 522US 38.

'[W]hen a criminal defendant makes a timely motion to discharge his retained attorney he should not be required to demonstrate the latter's incompetence, as long as the discharge will not result in prejudice to the defendant or in an unreasonable disruption of the orderly process of justice.' [Citation.]" (***People v. Munoz*** *(2006)* 138 Cal. App.4th 860 [2006 WL 990738, p. *3], citing *People v. Ortiz, supra,* 51 Cal.3d at p. 979.) '[A] court faced with a request to substitute retained counsel must balance the defendant's interest in new counsel against the disruption, if any, flowing from the substitution. [Citation.]' . . . 'To exercise the power of judicial discretion [in ruling on motion to relieve retained counsel], all material facts and evidence must be both known and considered, together with legal principles essential to an informed, intelligent and just decision.' [Citation.] Furthermore, 'The trial court . . . must exercise its discretion reasonably: "a myopic insistence upon expeditiousness in the face of a justifiable request for delay can render the right to defend with counsel an empty formality." [Citation.]' [Citation.]" (*People v. Munoz, supra,* 138 Cal.App.4th 860 [2006 WL 990738, pp. *5-6], italics added.) Because the trial court utilized the wrong standard, it did not adequately address the issue of delay. ***Reversal is automatic where, as here, a defendant has been deprived of his right to defend with counsel of his choice.*** (*People v. Ortiz, supra,* 51 Cal.3d at p. 988.) **[139 Cal.App.4th 110]** See, also ***United States vs. Gonzalez-Lopez*** (6-26-2006) 548 US 140; ***Chapman vs.***

California (1967) 386 US 18, 23; ***Cuyler vs. Sullivan*** (1980) 466 US 335; ***People vs. Gzikowski*** (1982) 32 Cal. 3d 580, 586; ***People vs. Ramirez*** (2006) 39 Cal. 4th 398, 423 and **Code of Civil Procedure §284** subd. (2). **(**See, Defendant's ***trial transcripts*** at page **D7, Lines 1 thru 18 and D18, Lines 9 thru 16 within the Cal. S. Ct.)**

The Defendant herein contention is that, the trial court did not even hold in essence a ***Marsden*** hearing, (***People vs. Marsden*** (1970) 2 Cal.3d 118, 84 Cal.Rptr. 156, 465 P.2d 44.) to see at the least and inquire into the defendant's assertion that his private counsel had **or** was currently at that point in time right there in the trial court room was providing him any type of inadequate representation "and to find out what to what degree was he and his attorney embroiled in any type of an irreconcilable conflict. Where his counsel Mr. Gary S. Casselman had refused to file ***or even argue*** the defendant's Motion to Withdraw his Plea.

The plea was given by and through the constant inducement from the trial court Judge back on ***July 15th, 2016.*** The duress was overcoming the exercise of his free judgment which resulted from the prior duress and ***[extrinsic causes]*** from both the Judicial officer on the bench and the District Attorney even up to the point of entering into the [no constest plea] **{viz.,}** because of the constant fear of his Liberty Interest and Bail being Revoked by Judge Katherine Mader and the Prosecuting Attorney D.D.A. Louis Parise which had been a constantly ongoing issue of forcibly trying to make the Defendant Register as a Sex Offender as part of keeping his Bail Bond which was never a factor in the beginning when the Defendant had originally posted bail in the first place prior to the use of these ***strong-arm tactics of persuasions*** (See **Exhibits F and G within the Cal. S. Ct.** Supreme Court of California Case Nos ***S234319 Gray vs. Sup. Ct. (2005) 125 CA 4th 629, 643-644*** and X-Ref 2nd Case Filing ***S235307***) along with the fear factor of losing his home, property, his declining health while being in a wheelchair in jail custody while out on a Workman's Comp. Injury during these trial court proceedings since 2014.

The Defendant was also heavily medicated prior to going to court not only on this date but on each date of being transported to court by the Sheriff's Department's Wheelchair Lift buses. Each and every inmate are given their medication prior to going to court because they would not be in the jail medical ward at the time that their medication would normally be handed out on a time schedule, so the Defendant herein had been given his daily dose of medication that [should not be taken while operating a motor vehicle] or other machinery which may cause injury to oneself, before entering into the plea on the day of as well. The Defendant has a spinal injury L1 – L5.

Furthermore, not only was the Defendant's Plea entered into ***by inadvertence, mistake and ignorance through his attorney of record*** but by ***Fraud*** also presented by the court judicial officers of the court. The Defendant herein ***would not*** have entered into and accepted the Plea Bargain had it **not been for *the mistake* and *representation of his then prior counsel Gary S. Casselman,*** who had and did advise the

Defendant ***(prior into entering the plea)*** was that 'even if he (the defendant) did accept any type of plea-deal it would be **[VOID]** on its face (***People vs. Miller*** (1859) 12 Cal. 291; ***People vs. Picetti*** (1899) 124 Cal. 361; ***Ex parte Vice*** (1901) 5 Cal. App. 153; ***People vs. McGee*** (1934) 1 Cal. 2d 611; ***In re Harris*** (1993) 5 Cal. 4th 813, **HN11** **Section "B" LACK OF FUNDAMENTIAL JURISDICTION;** ***People vs. Chapman*** (1975) 47 Cal. App. 3d 597; ***In re Demillo*** (1975) 14 Cal. 3d 598; ***People vs. Brice*** (1988) 206 Cal. App. 3d 111; ***People vs. Hoffman*** (1933) 132 Cal. App. 60; ***In re Davis*** (1936) 13 Cal. App. 2d 109; ***People vs. Rose*** (1972) 28 Cal. App. 3d 415; ***People vs. Lynch*** (2010) 182 Cal. App. 4th 1262; ***People vs. Sup. Ct. (Marks)*** (1991) 1 Cal. 4th 56, 66 **HN5;** ***People vs. Angel*** (1999) 70 Cal. App. 4th 1141; ***Sanders vs. Sup. Ct.*** (1999) 76 Cal. App. 4th 609; ***US vs. Williams*** (1951) 341 US 58, 68; ***CAL. PENAL CODE*** **§804 subd (c)** and **§1009** and see ***The Law Revision Commission's Reference to the Model Penal Code*** **§1.06 subd. (5))** due to the fact that the ***Statute of Limitations*** had already lapsed at the time the District Attorney had filed the matter **(**See, ***trial transcripts*** at page **D19, Lines 10 thru 28 within the Cal. S. Ct.)** which was by three (3) years, three (3) months and fifteen (15) days after the alleged crime, was allegedly committed back on ***November 16th, 2012*** and all that the Defendant would have to do is accept the deal; get out; file a Notice of Appeal by the sixtieth (60) day mark and file a Habeas Corpus four (4) months also after the date of the plea deal for the trial court to lose jurisdiction (120days) and eventually the conviction would be overturned based upon the fact that I (the defendant) cannot be forced to waive a Statutory Right, by pleading to a charge after the time has already expired.' (See, ***In re Moser*** (1993) 6 Cal. 4th 342, 352) **(**See ***trial transcripts*** at page **D19, Lines 10 thru 28 within the Cal. S. Ct.)**

Had Defendant's Counsel of record not convinced defendant that he had nothing to lose but everything to win and gain besides his ***Liberty (Freedom)*** back and to be able ***to continue to fight the matter from the streets*** where also his declining health would no longer be of any concern because he would not have to deal with the LASD lack of medical treatment any further and could go to his own doctor as required under Worker's Comp. Defendant would have continued onto trial as he had already clearly told Judge Mader on the record on ***July 8th, 2016*** just one week prior that that's what he was going to do and would not have plead no-contest at the advice of counsel a week later. (See, ***Hill vs. Lockhart*** (1985) 474 US 52, 58-59.)

This plea agreement was also perpetrated by ***Fraud by the Judicial Officers of the Court*** to induce the defendant of the **{fear}** and **{duress}** of having to continuously do **{jail time}** upon the Defendant if he did not accept the plea-deal ***{by continuously revoking and doubling his bail}*** every time the defendant would re-bail back out. This too was a mistake by the Defendant to enter into any plea overtaking the exercise of Defendant's own free judgment under ***duress, [extrinsic causes] fear, threats, coercion, bullying and intimidation*** **{viz.,}** because of the constant fear of his Liberty Interest and Bail being Revoked again by Judge Katherine Mader and the Prosecuting Attorney D.D.A. Louis Parise of forcibly trying to

make the Defendant Register as a Sex Offender as part of keeping his Bail Bond which was never a factor in the beginning when the Defendant had originally posted bail in the first place prior to the ***using of these strong-arm tactics of persuasions.*** (See, **Exhibits F and G within the Cal. S. Ct.** Defendant's Cal. S. Court Case Nos. ***S234319 Gray vs. Sup. Ct. (2005) 125 CA 4th 629, 643-644*** and X-Ref 2nd Case Filing ***S235307***) (i.e. ***People vs. Schwarz*** (1927) 201 Cal. 309, 314; ***People vs. Griggs*** (1941) 17 Cal. 2d 621; ***People vs. Campos*** (1935) 3 Cal. 2d 15, 17; ***People vs. McGarvy*** (1943) 61 Cal. App. 2d 557, 564; ***People vs. Young*** (1956) 138 Cal. App. 2d 425, 426; ***People vs. Denal*** (1972) 25 Cal. App. 3d 1002, 1005, 1008-1009; and ***People vs. Huricks*** (1995) 32 Cal. App. 4th 1201, 1207-1208.)

"When you're in Jail because you can't pay your bail, innocent people are more likely to plead to crimes that they didn't commit because they need to get out" observed California Assemblyman ***Rob Bonta***, who was sponsoring bail reform Legislation, along with California Assemblyman ***Robert Hertzberg,*** Author of **SB10** – The ***California Money Bail Reform Act.*** Like the inability to make bond is not a problem faced by wealthy defendant, of course. For example, **Tiffany Li,** a Chinese Real Estate Tycoon, Posted 35million in bail in April 2017 to be release prior to trial on a California Murder Charge and so did Eighteen (18) year old **Cameron Terrell,** a white, blue eyed teenager from the affluent Los Angeles suburb of Palos Verdes Estates who was arrested on October 1st, 2017 on suspicion of murder in an alleged gang killing in South Los Angeles. About a week later, Cameron Terrell posted a $5-Million Dollar Bail. He admitted that he was the driver of the shooting. The black Mercedes-Benz, was registered to his father, was caught on surveillance video. He was acquitted by the jury of murder and two counts of attempted murder of 21-year old Justin Holmes. Some saw the acquittal as yet another example of a criminal justice system that hands out unequal punishment based on race, ethnicity and wealth.

What Judge Mader and DDA Parise did was plotted purposely too unconstitutionally discriminate against the defendant herein, so that he would languish in jail; even in the most recent decision on January 29th, 2018 in the DJDAR at pg. 943, ***In re Kenneth Humphrey*** 64years old out of the First Appellate District Division Two, Case Number A152056, **Re:** a $350,000.00 bail for stealing $5.00 and a bottle of cologne [**Note:** Review was granted in the Supreme Court of California on 5-23-2018 in ***S247278 pending.***]

Defendant, herein has **no** Juvenile Record, **no** Serious **or** Violence Arrest History and **not one (1)** strike, yet because of hatred defendant's bail was raised to fifteen (15) times (15x) the amount and the actual bail schedule is only $20k, to $300k. The extremely very pervasive Judicial Misconduct Bias is apparent from the following records that **[M]ust** be augmented because defendant's appointed appellate counsel ***"Steven M. Brody SBN #271616"*** didn't and defendant is clearly entitled to have a completely Full Record for an appellate Review of the events: ***February 24th, 2016; March 17th and 29th, 2016; June 1st, 2016 and July 8th, 2016.*** Not one person ordered any of the missing ***Five (5) Trial Court Transcripts*** to be augmented by the Defendant's request in ***B289847*** nor did the Judge's order by Petition

for Review in the Supreme Court of California as requested by the Defendant in ***S249150.***

This was why and how the defendant ended up in the first place missing his ***August 31st, 2016*** court date because he had to appear in the ***Santa Monica Courthouse*** (See, ***Hillcrest Manor, LLC. vs. Williams,*** Santa Monica Sup. Ct. Case No. **16R03561**) to defend his self in the Unlawful Detainer that had been filed against him because of his continuously missing the payments of his rent on time and constantly having to fork out more and more bail money to keep his ***Liberty Freedom*** even though the Defendant was never doing nothing wrong to have had any of his bail bonds revoked to began with by Judge Katherine Mader.

The ***Plea is Prejudice to the Defendant,*** for the fact that the deception used in which both his private counsel and the Judicial Officers of the court brainwashed the Defendant by placing the Defendant in a pressure cooker type situation using {[**Freedom or Jail**]} as a ploy to plead-out by using ***coercive tactics, threats, coercion, bullying and intimidation*** was ***used in these strong-arm tactics of persuasions*** for a plea in order to be set free but, defendant also ***unknowingly*** under the belief of his counsel, whom did not inform the defendant that he would not be unable to proceed into the Federal Courts if the Habeas Corpus Writ Petition ***or even if*** the direct appeal did not succeed at the State Appellate Court level on the merits because of the plea in itself, which he, as counsel, had also failed to present this fine line of small detailed information to the defendant which ***should not have been*** **left out** of the conversation of Information in order to obtained the defendant's confidence in helping himself in securing the defendant's immediate release back on ***July 15th, 2016.***

It was by the defendant's mistake in believing in anything that both the defendant's counsel of record Mr. Casselman had informed him thereof and by the fear of more jail time was to come from the Judicial Bench Officer in further revoking the defendant's bail even again should defendant choose to bail back out again for a third time as before within the prior six (6) months, not to mention the fact that he had already been bailing out, it had now became a strain on his financial livelihood. ***The Plea cannot stand nor is it valid in the face of events presented herein to this Reviewing court.***

In ***People vs. Griggs*** (1941) 17 Cal. 2d 621, citing: ***People vs. Schwarz*** (1927) 201 Cal. 309, 314 " " That it is now well settled in this state that where on account of ***duress, fraud, or other fact overreaching the free will and judgment of a defendant he is deprived of the right of a trial on the merits,*** The court in which he was sentenced may after judgment and after time for appeal has passed, if properly supported motion is seasonably made, grant him the privilege of withdrawing his plea of guilty and of reassuming the situation occupied by him before a plea of any kind was entered." To which should be added that any other course would probably constitute a denial of due process of law."

Defendant's, counsel of record also did too know where the Defendant was on ***August 31st, 2016*** (See, Declaration **Exhibit - H**, herein dated by Gary S. Casselman, ***August 28th, 2016***) and see what counsel ***did not tell the court truthfully*** **on** ***August 31st, 2016*** in the ***trial transcripts*** at page ***B2, Lines 1 thru 28*** and

at page **D11 thru 12, Lines 27 thru 3 within the Cal. S. Ct.**

All of the above facts have previously been presented to both the Second Appellate District Court, Division One, by a Writ Petition under Case No ***B289847*** and under Case No ***S249150*** in the Supreme Court of California, none of this information is that new regarding the events?

Defendant contends that the denial of his request to discharge his private retained counsel prior to sentencing resulted in the denial of both his State and Federal Constitutional Rights to his choice of counsel, under Due Process and Equal Protection under the Color of Law where his current counsel , Mr Casselman, had refused to file ***or even argue*** Defendants' Motion to Withdraw his Plea because he had received a phone call from Attorney ***"THOMAS WILLIAM KIELTY, SBN 164186"*** (See, **Exhibit - I, within the Cal. S. Ct.**) whom the defendant had made communications with to come in on the case and replace Mr. Casselman, to file the ***Motion to Withdraw the Plea,*** that was to be based upon the Court's lack of Jurisdiction under the Statute of Limitations having already expired at the time of the ***January 29th, 2016*** filing date for **Case Number BA443387**and where there was **no!!!** offer of proof introduce by the District Attorney's Office ***(any Scintilla of Evidence)*** (see, ***trial transcripts*** at page **D18 thru D19, Lines 18 thru 4 within the Cal. S. Ct.**) that the defendant has **or had *[actually]*** ever registered on any DOJ Annual **Update Form Titled:** "SEX REGISTRATION – CHANGE OF ADDRESS – ANNUAL OR OTHER UPDATE" to even charge the defendant with a Prior Actual Failure to update ***any*** Registration because Defendant has never been sentenced to register ***or even be given*** a Written ***and/or*** Verbal Notice to do such for a Valid Conviction **or** for a charge that would be constituted as a qualifying offense. (See, **Exhibits - B, C, D, E, and F within the Cal. S. Ct.**) The defendant could not be held to a oral agreement, in essences a ***"contract"*** for something that the State of California, itself could not even prove and a ***DEMAND FOR TRIAL,*** was the proper vehicle that Mr. Williams had been wanting to take prior to the arrive of Mr. Casselman coming in on the record.

The Denial by the trial court to not entertain the Defendant's Verbal Motion to Withdraw his Plea (see, ***trial transcripts*** at page **D15, Lines 14 thru 18 within the Cal. S. Ct.**) where his counsel of record did not even attempt to neither bring up the Motion himself on defendant's behalf or jump into the line of fire to argue the grounds verbally as oppose to a actual written out motion was Prejudicial and a Fundamental Miscarriage of Justice. Defendant was denied the Due Process when the court never looked into the essences or the legal grounds for appellant's desire for withdrawal of the plea, rendering the sentencing proceedings fundamentally unfair. The trial court erroneously erred in failing to address defendant's verbal motion since Mr. Casselman, refused to make the verbal motion himself **or** file one otherwise since his meeting with the defendant days before the **May 8th, 2017** sentencing hearing.

The Fourteenth Amendment provides that **NO!!!** State ***Shall*** "deprive any person of Life, Liberty, or Property without due process of law...." US Constitution Amendment XIV, §1; See ***Hewitt vs. Helms***

(1983) 459 US 460 at p.466.

The court's structural error was **Akin/Tantamount** to a Probation Violation hearing. It was not harmless and is Reversible per se. The Principle of Proportionality (See, ***Harmelin vs. Michigan,*** (1991) 501 US 957) when it comes to the eight (8th) Amendment Violations(s) Defendant herein sentencing to a four (4) year prison term had been a ***"Grossly Disproportionate Barbaric Punishment"*** for not taking none of the ***February 24th, 2016; March 17th*** **and** ***29th, 2016*** plea offers of time served as well as the ***June 1st, 2016*** and ***July 8th, 2016*** plea offer for "time serve" with **no!!!** Probation; **no!!!** Court fines or fees and **no!!!** Further "Remands" Revoking the Defendant's Bail. (See, ***Solem vs. Helm*** (1983) 463 US 277.)

"An alleged failure to comply with the annual registration requirement is the most technical violation of the §290. Registration Requirement and posed no danger to society . . . a violation of that subsection involves neither violence nor threat of violence to any person; it is purely a regulatory offense and setting bail that is purely disproportionality . . . . To set bail schedule do not protect the public when the current offense bears little indication that the defendant has recidivist tendencies to commit offenses that pose a risk of harm." (***Gonzales vs. Duncan*** (9th Cir. 2008) 551 F.3d 875.)

The California Courts have characterize the states's registration requirement as a regulatory offense, a "most technical violation" that "by itself, pose[s] no danger to society." ***People vs. Cluff*** (2001) 87 CA 4th 991, "alone its "an entirely passive, harmless, and technical violation of the registration law." Past offenses do not themselves justify imposition of an enhanced sentence of a current offense. The Double Jeopardy Clause prohibits successive punishment for the same offense. The policy of the clause therefore circumscribes the relevance of recidivism to the extent the punishment greatly exceeds that warranted by the aggravated offense, it begins to look very much as if the offender is actually being punished again for his prior offense." ***People vs. Carmony*** (2005) 127 CA 4th 1066.

The Fourteenth Amendment of the Federal Constitution, and ***Article I, Section 7, subd (a)*** of the California Constitution prohibit all state action which denies to any person the "equal protection of the laws." The Equal Protection Guarantee simply prohibits prosecuting officials from purposely and intentionally singling out individuals for disparate treatment on an invidioudly discriminatory basis. (***Murgia vs. Muni. Ct.*** (1975) 15 Cal. 3d 286.) Turning to California Law, **Art. I, §17** of the Cal. Const. prohibits the Infliction of "[c]ruel or unusual punish . . . ." This is what Judge Mader and DDA Parise kept doing when revoking and doubling defendants' bails but only after an OSC had been issued in ***S234319*** on May 12th, 2016 then in turn the defendant was given an **O.R. Release** on the $300k but only after a plea was taken on ***July 15th, 2016.***

For The Foregoing reasons, appellant respectfully urges this Honorable Court to grant review in this matter.

REASONS FOR GRANTING THE PETITION

Because it would be the right concise act to do in light of the information presented herein, and Pursuant to Rule 20.4(a); ***Picard vs. Connor*** (1971) 404 US 270, 275; ***Taylor vs. Lewis*** **(9th Cir 2006)** 460 F.3d 1093, 1097 **n4 and** ***Hovey vs. Ayers*** **(9th Cir. 2006)** 458 F.3d 892, 901-902.

"A denial by a State Court of a Writ of Habeas Corpus to one who claims that the judgment under which he is imprisoned was rendered in violation of his Constitutional Rights is review by the Supreme Court of the United States as necessarily involving a Federal Question. State Court's, equally with Federal Courts, are under an obligation to guard and enforce every right secured by the Federal Question." ***Smith vs. O'Grady*** (1941) 312 US 329, 334.

"An accused may have been denied the assistance of counsel under circumstances which constitute an infringement of the United States Constitution. If the State affords No! Mode for redressing that wrong, he may come to the Federal Courts for relief...." ***Carter vs. Illinois*** (1946) 329 US 173, 174-175 **HN6.**

In ***Bowen vs. Johnson*** (1939) 306 US 19-30 **HN9, 10** citing: "***Ex parte Nielsen*** (1889) 131 US 176, 183 [33 L. Ed 118, 120, 9 S. Ct. 672] and the remedy of Habeas Corpus may be needed to release the prisoner from a punishment imposed by a court manifestly without Jurisdiction to pass judgment. It ***[MUST]*** **[n]**ever be forgotten that the Writ of Habeas Corpus is the precious safeguard of personal liberty and there is no higher duty than to maintain it unimpaired. (See, also ***In re Bonner*** (1894) 151 US 242, 26.)"

Ex parte Lange (1874) 85 US 163, "The rule requiring resort to appellate procedure when the trial court has determined its own jurisdiction of an offense is not a rule denying the power to issue a Writ of Habeas Corpus when it appears that never the less the trial court was without jurisdiction. The rule is not one defining power but one which relates to the appropriate exercise power." "Throughout the Centuries the Great Writ has been the shield of personal freedom insuring liberty to persons illegally detained. Respecting the state's grant of a right to test their detention, the Fourteenth Amendment weighs the interest of rich or poor criminals in equal scale, and its hand extends as far to each." ***Smith vs. Bennett*** (1961) 365 US 708, 713 **HN9.**

Miller vs. Pate (1967) 386 US 1 **N2,** "More than 30 years ago this court held that the Fourteenth Amendment cannot tolerate a State Criminal Conviction obtained by the knowing use of false evidence. ***Mooney vs. Holohan*** (1935) 294 US 103. There has been **No!** Deviation from that established principle. ***Napue vs. Illinois*** (1959) 360 US 264; ***Pyle vs. Kansas*** (1942) 317 US 213; cf. ***Alcorta vs. Texas*** (1957) 355 US 28. There can be no retreat from that principle here."

"The United States Supreme Court holds allegation of a pro se complaint to less stringent standards than formal pleadings drafted by lawyers. A complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the Plaintiff can prove No! Set of facts in support of his claim which would entitle him to relief." "We conclude that he is entitled to an opportunity to offer proof." ***Haines vs. Kerner*** (1942) 404 US 519 **HN 1, 2, 3.**

As Chief Justice Burger has written: "[Under] our adversary system an Appellate Court cannot function efficiently without lawyers to present whatever there is to be said on behalf of an appellant, however meager his claims may be, So that the court can make an informal appraisal." (***Johnson vs. United States*** (1966) 360 F. 2d 844, 847 [124 App. D.C. 29] concurring opinion.) Cited In ***People vs. Smith,*** (1970) 3 Cal. 3d 192.

"The Sixth Amendment Right to Counsel is the right to the effective assistance of counsel." ***McMann vs. Richardson*** (1970) 397 US 759, 771 **N*14,** 90 S. Ct. 1441, 25 L. Ed. 2d 763

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Date: **March 9th, 2019**