

No. 18-9397

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Supreme Court, U.S.  
FILED

MAY 16 2019

OFFICE OF THE CLERK

MIGUEL ANGEL BARRON — PETITIONER  
(Your Name)

vs.

RAYMOND MADDEN — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

MIGUEL ANGEL BARRON #AX-0480  
(Your Name)

P.O. Box 901 - Centinela State Prison  
(Address)

Imperial, C.A. 92251  
(City, State, Zip Code)

\_\_\_\_\_  
(Phone Number)

RECEIVED

MAY 22 2019

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SUPREME COURT, U.S.

QUESTION(S) PRESENTED

#1

CAN A STATE TRIAL COURT INSTRUCT A JURY WITH AN INSTRUCTION THAT REDUCES THE BURDEN OF PROOF OR VIOLATE A PRINCIPLE OF FAIRNESS CONTAINED IN THE DUE PROCESS CLAUSE?

#2

CAN A STATE TRIAL COURT PROHIBIT THE DEFENSE FROM PRESENTING FAVORABLE EVIDENCE (TOXICOLOGY EVIDENCE [RESULTS]) THAT THE VICTIM (ALSO PARTY IN THE DOMESTIC <sup>ALTERCATION</sup> ~~DISPUTE~~) WAS UNDER THE INFLUENCE (OF 2 TYPES OF DRUGS AND ALCOHOL) WHEN HE WAS SHOT AND KILLED BY THE CRIMINAL DEFENDANT? THE STATE DEMANDED PETITIONER TO CLAIM SELF-DEFENSE OR BE DENIED THE OPPORTUNITY TO PRESENT THIS RELEVANT AND CRITICAL <sup>PIECE OF</sup> ~~EVIDENCE~~ DEFENSE EVIDENCE TO THE JURY. THE VICTIM NEVER PHYSICALLY ATTACKED PETITIONER, SO HE DID NOT WANT TO CLAIM SELF-DEFENSE. HE ONLY WANTED THE JURY TO KNOW WHY HE BECAME AFRAID OF HIM AND DECIDED TO ARM HIMSELF WITH GUN BUT WHILE DRUNK AND BEUGERENT FIRED THE GUN WITHOUT INTENT TO KILL.

## 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 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☒ is unpublished.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 United States district court appears at Appendix B 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 C 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 California Appellate court appears at Appendix D to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished.

## TABLE OF AUTHORITIES CITED

| CASES                                       | PAGE NUMBER        |
|---|--------------------|
| Washington v. Texas (1967)                  | 388 U.S. 610       |
| Chambers v. Mississippi (1973)              | 410 U.S. 284, 295  |
| Doyle v. Ohio (1976)                        | 426 U.S. 610       |
| Boyde v. California (1990)                  | 494 U.S. 370, 380  |
| Sullivan v. Louisiana (1993)                | 508 U.S. 275, 279  |
| United States v. Gaudin (1995)              | 515 U.S. 506       |
| Montana v. Egelhoff (1996)                  | 518 U.S. 37, 54-55 |
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OTHER

## JURISDICTION

[ ] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 4/2/19.

☒ 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 4/25/16.  
A copy of that decision appears at Appendix C.

[ ] 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

Criminal defendant's constitutional rights to present relevant evidence, to present a defense, and to a jury determination on all issues.

U.S. Const. Amends. V, VI, ~~XIV~~.



### STATEMENT OF THE CASE

Petitioner Barron was convicted of the 2nd degree murder of Cesar Nande (Count 1) and the attempted murder of Nande's girlfriend (and also Petitioner's niece) Maria Maldonado, in count 2. The prosecution theory was that Petitioner and Nande had been involved in a domestic dispute, angry, feeling disrespected, became drunk and enraged. When his niece Maldonado called 9-1-1, Petitioner attempted to kill her by firing a single shot from a rifle. Nande got in between petitioner and Maldonado, Nande was shot the bullet went through Nande and injured Maldonado.

At trial, Maldonado testified against petitioner, and she testified to the actions of petitioner and her boyfriend victim Nande throughout the day, and the court ruled, in limine, that evidence showing Nande had methamphetamine, cocaine, and alcohol in his system would be excluded. (3RT 716-717) A toxicology report on Nande came back positive for Meth, cocaine, alcohol and possibly a prescription drug which is not named in the record. Granting the prosecution's request to bar the defense from questioning or bring up evidence of Nande's use until a proper foundation showing based on petitioner's testimony.

Petitioner thereafter testified that he had seen Nande use both Meth and Cocaine in the past, and that he suspected Nande had used on the day of the shooting. (4RT 1301). On cross-examination, Petitioner stated he was in fear of Nande that day. (4RT 1544). Other witnesses testified that petitioner and Nande had been arguing in the hours leading up to the shooting. Petitioner had told detectives that Nande had threatened him. (2CT 294). Petitioner testified he armed himself to scare Nande not to kill him, but while being heavily intoxicated bumped into something and the gun fired by accident. Defense counsel argued the requisite foundational showing was made but state court refused to allow evidence in, trial counsel made objections (5RT 1829).

## REASONS FOR GRANTING THE PETITION

Petitioner prays that Court exercises its discretionary jurisdiction in order to resolve the two questions presented in this petition, because the decisions by the lower courts are erroneous and are of national importance since the lower courts have continued to apply rulings that are contrary to this court's precedent. Bedrock decisions by this court clearly expressing DUE PROCESS guaranteed rights for criminal defendants in order to receive a fair trial are being construed in ways that deny basic constitutional rights.

In question one, the state trial court instructed the jury with a defected instruction that reduced the burden of proof and the prosecutor seized on this instruction to argue the jury could and should ignore evidence of petitioner's voluntary intoxication when deciding whether he actually formed the intent to kill. The Due Process clause of the 14th Amendment requires the prosecution to prove every element charged in a criminal offense beyond a reasonable doubt. In re Winship (1970) 397 U.S. 358, 364 [90 S.Ct. 1068, 25 L.Ed. 2d 368].

As for question two, The State and lower court's adverse ruling against the defense was prejudicial. First, it unfairly restricted the defense's cross-examination of Maldonado, victim's surviving girlfriend, who was also victim of attempted murder in court. Second, the ruling impinged on petitioner's Constitutional right to present a defense. The jury had a wide degree of choices in judging petitioner's level of blame, while he did actually testified he believed the victim had used drugs that day, there was nothing to corroborate this self-serving claim. Leading only to believe that he lied or was attempting to mislead the jury about the victim's (also party to dispute in domestic conflict) actions prior to the shootings. The restriction imposed by the state court unfairly impaired petitioner's credibility with the jury. The toxicology results would have demonstrated he was truthful - The victim was also drunk but under the influence of hard drugs during their heated domestic altercation which caused petitioner to fear him.

The U.S. District Magistrate judge, in his Report & Recommendation - Appendix B - (pg. 11, lines 15-25) heavily criticized Petitioner's claim & quoted "As the Supreme Court has not yet made a clear ruling that admission of irrelevant or overtly prejudicial evidence constitutes a due process violation sufficient to warrant issuance of the writ, the evidentiary ruling was not contrary to, or an unreasonable application of, clearly established federal law" to this, Petitioner humbly requests that this Great honorable court exercise its discretion and answer the above named quote in a clear ruling. On what is sufficient to warrant issuance of the writ? Because apparently "fairminded jurists" could disagree whether state court applied evidentiary rules that offend these principles of justice that are so rooted in the traditions and conscience of our people as to be ranked as fundamental. To: **CONCLUSION** <sup>undermind a fundamental</sup> element of the defense by excluding relevant evidence does not suffice?

The petition for a writ of certiorari should be granted.

Respectfully submitted,

\_\_\_\_\_

Date: \_\_\_\_\_

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

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PETITION FOR WRIT OF CERTIORARI

MIGUEL ANGEL BARRON — PETITIONER  
(Your Name)

VS.

RAYMOND MADDEN — RESPONDENT(S)

**PROOF OF SERVICE**

I, MIGUEL ANGEL BARRON, do swear or declare that on this date, MAY 7th, 2019, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Attorney General  
300 South Spring Street, Suite 1702  
Los Angeles, C.A. 90013

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

Executed on 5/7, 2019

Miguel Angel Barron  
(Signature)