

9.4
118-9553
No.

ORIGINAL

FILED

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OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

Washington D.C. 20543

MARVIN EUGENE JONES — PETITIONER
(Your Name)

vs.

PEOPLE OF CALIFORNIA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

MARVIN EUGENE JONES
(Your Name)

C.S.P. P.O. BOX 3535
(Address)

Norco CA, 92860
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1
2 If this Court would do a DE Nova
3 review of this entire case, this court will
4 find a clear violation of Petitioner
5 Constitutional rights with the facts of
6 the case enclosed in this section.
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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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TABLE OF AUTHORITIES CITED

CASES

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Buckley 441, F.3d at 697

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1 Cranch 137, 2 LED 60

4

Cal. Cont. Act I sec, 10 c1

6

Marbury vs. Madison (1803) 4.5.137

4

Marby vs. Johnson, 467 4.5.504

2

Mayers vs. United States (1926) 272 4.5.52, 71 LED 160, 47 sec 214

Odamsen 483 U.S. at 5n3

8

People vs. Drake, Supra 123 cal 3d 59

2

People vs. Romero

1

Prior Case No #A182808

1

Santa Bello vs. N.Y 404 U.S. 262

6

STATUTES AND RULES

5th Amend

9 A

6th Amend

9 A

14th Amend

4

14th Constitution

9 A

14th equal protection

9 A

28 U.S.C. sec, 1254(1)

8 A

28 U.S.C. sec, 1257(a)

8 A

667.5

1

Sec, 1170, 12(B)

1

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1		
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12	P.C. sec, 667 (D)	1
13	P.C. sec, 1170, 12	1
14	P.C. sec, 1170 (H)(3)	1
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OTHER

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

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

OPINIONS BELOW

☐ For cases from **federal courts**:

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

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☒ is unpublished.

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

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

☐ For cases from **state courts**:

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

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

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

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

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 6-20-18.

☐ 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 9, 14, 14.
A copy of that decision appears at Appendix _____.

☐ 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

Cal. Const. I. sec. 9 ex post facto; 5th Amendment; Sixth Amendment 14th Constitution Due process; Speedy trial, effective assistance of counsel; 14 equal protection; Miranda rights.

STATEMENT OF THE CASE

Petitioner was arrested on December 28, 2014, Bk # 4194081 see Ex(A). Petitioner was never read his rights Nor was he given a receipt to show what he was being charged with.

2) on January 14th, 2015, the charge was dismissed. Public defender Mr. Brin Woo was not present and No where to be Found.

3) on January 14th, 2015. The charge was refiled - upon refiling the booking number remain the same and as the court should take Judicial notice that in Ex(B) where Petitioner was given a new Booking number #4989892. But the courts information does not match the documents as to where Petitioner was appearing in court as the days describe in Ex(A) and abstract of Judgment see Ex(A) and again public defender Mr. Brin Woo was not present and no where to be found. Petitioner was appearing in Compton Superior court department (F) to the honorable John T. Doyle. On 1-14-15; 2-13-15; 3-17-15; 3-30-15; 4-7-15; 4-10-15; 4-22-15. All under the arresting Booking No #4194081, as shown in Exhibit (A).

4) Petitioner on or about 4-5-2015 or soon thereafter in Compton Court Dept "F" was allowed to demurser the court by the honorable John T. Doyle Judge.

5) Petitioner next court appearance public defender

1
2 Mr. Brin was entered the court room without
3 Petitioner waived my rights without my consent
4 in order to prevent the dismissal a second
5 time because the prosecutor had no new
6 evidence in order to refile the Criminal
7 information against petitioner.

8 6) Public defender Mr. Brin was went Judge
9 Shopping and on 4-10-15 petitioner went before
10 department SCH Eleanor J. Hunter Judge.
11 Petitioner's Booking No #4989892 in exhibit is
12 not matching the charging documents on the
13 arresting document in exhibit (A) and exhibit
14 (C) Booking No #4194081
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ARGUMENTS ()

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3 1) ON 4-10-15, PETITIONER PLEADED NO CONTEST
4 TO COUNT (1) A VIOLATION OF PENAL CODE § 245(A)(1)
5 ASSAULT WITH A DEADLY WEAPON.

6 2) PRIOR TO SENTENCING, THE COURT GRANTED A
7 DEFENSE MOTION PURSUANT TO PEOPLE VS RONLEY
8 AND STRUCK THE PRIOR ONLY PURSUANT TO P.C. § 667
9 (D) AND § 1170.12(B) AND PENAL CODE § 667(B)-(C) &
10 § 1170.12 AND 1170(A)(3).

11 3) PETITIONER WAS SENTENCE TO 4-YEARS FOR
12 COUNT (1) AND 5 YEARS FOR THE 667(A)(1) FOR A
13 PRIOR CASE NO# A182808.

14 4) THE SENTENCE 4 YEARS UPPER TERM FOR VIOLATING
15 P.C. § 245(A)(1) IS THE STANDARD. HOWEVER (THE
16 PLUS (5) YEARS SENTENCE UNDER P.C. § 667(A)(1)/
17 667(D) AND § 1170.12(B) IS UNAUTHORIZED THUS ILLEGAL.

18
19 5) PETITIONER PLUS (5) YEARS ENHANCEMENT ARISE
20 OUT OF A PRIOR CONVICTION OF 1913, CASE NO# A182808
21 UNDER SENATE BILL SB #42 AND THE PLUS (5) WOULD
22 BE IMPROPERLY IMPOSED SEPARATE SENTENCE ENHANCEMENT
23 FOR SUFFERING A PRIOR CONVICTION AND SERVING
24 A PRIOR PRISON TERM BASED ON THE SAME CRIME.

25 6) A PRIOR CONVICTION FOR A DIFFERENT OFFENSE MAY
26 NOT SERVE AS THE BASIS FOR SEPARATE CONSECUTIVE
27 SENTENCE ENHANCEMENT UNDER PENAL CODE § 667.5

28 7) BECAUSE THERE IS NO IMPOSED ADDITIONAL

PUNISHMENT UNDER PENAL CODE STATUTES OF THE OFFENDER,
AND NOT THE ACTS OR OMISSION UNDERLYING THE CURRENT
OFFENSE.

8) PENAL CODE § 654 PROHIBITION AGAINST DOUBLE
PUNISHMENT FOR SINGLE ACT OR OMISSION. THE PLUS
"5" YEARS IS NOT IN STATUTORY REQUIREMENT.

9) EVEN IF IT WAS IT WILL STILL BE IN VIOLATION OF
STATUTORY REQUIREMENT IN PEOPLE VS. DRAKE SUPRA
123 CAL 3D 59. THE PLEA AGREEMENT IS UNCONSTITUTIONAL
AND IS APPROVED BY PROSECUTOR AND JUDGE
AND WAS ENTERED INTO THE MINUTES (I.E. THE RECORD).

10) ONCE A DEFENDANT'S PLEA AGREEMENT IS APPROVED
AND ENTERED ON THE RECORD IN OPEN COURT THAT
DEFENDANT'S GUILTY PLEA IMPLICATES THE CONSTITUTION,
NOT THE PLEA BARGAIN. PROSE (I.E. STANDS ALONE.
IN RE: MARSH VS JOHNSON, 467 U.S. 504; SANCHEZ
VS. NEW YORK, 454 U.S. 212, WHICH STATES, "WHEN A
PLEA REST IN ANY SIGNIFICANT DEGREE ON A PROMISE
OR AGREEMENT OF THE PROSECUTOR SO THAT IT CAN BE
SAID TO BE PART OF THE INDUCEMENT OR CONSIDERATION
SUCH PROMISE MUST BE FULFILLED. THE TRIAL JUDGE
IS WITHOUT DISCRETION TO IMPOSE A DIFFERENT TYPE
OF SENTENCE SO JEOPARDY ATTACHED WHEN THE
JUDGE UNCONDITIONALLY ACCEPTED THE PLEA BARGAIN.

11)

ON JANUARY 14th, 2015, WHILE IN COMPTON SUPERIOR
COURT DEPARTMENT # 11, BK # 4194081, THE PEOPLES

1 POSITION WAS TO DISMISS THE CHARGE. ON FEBRUARY
2 13TH, 2015. PETITIONER WAS BACK IN COURT UNDER
3 THE SAME CASE, BK#NO -4194081 IN DEPARTMENT
4 "F" IN FRONT OF THE HONORABLE JOHN T. DOYLE,
5 PETITIONER APPEARED IN DEPARTMENT "F" ON 2-13-15;
6 AGAIN ON 3-4-2015; ALSO 3-17-2015; AGAIN ON
7 THE 30TH OF MARCH, 2015, AND ONCE AGAIN ON
8 APRIL 7TH, 2015; APRIL-10, 2015; ALL THE WHILE
9 UNDER BOOKING NO #4194081.

10 12) ON APRIL 10TH, 2015, PETITIONER WAS SENTENCED
11 TO 4 YRS UPPER TERM, PLUS 5 YRS IN DEPARTMENT
12 "SCH" IN FRONT OF THE HONORABLE ELMOR J. HUNTER.
13 WHILE STILL UNDER THE SAME CHARGE.

14 13) THE COURT SHOULD TAKE JUDICIAL NOTICE IN
15 THESE ABOVE ENTITLED CASE WITH REGARDS TO CASE
16 NO# TA136274 IN COMPTON SUPERIOR COURT DEPART.
17 MENT- "SCH". PETITIONER'S BOOKING NUMBER
18 IS NO LONGER BK NO# 4194081. IT WAS NOW, ON
19 SAID DATE, BK NO# "4989892", AS SHOWN IN EXHIBIT

20 (B). IT'S NOT CONSISTANT WITH THE FELONY
21 ABSTRACT OF JUDGMENT IN EXHIBIT (C), NOR IS IT
22 CONSISTANT WITH THE BOOKING NO# PREVIOUSLY
23 ON RECORD SEE EXHIBIT (A). BK NO# 4194081.

24 14) THE FOLLOWING ACTIONS ARE ON RECORD WHICH
25 NEARLY REFLECT ERROR OF THE PROSECUTOR'S
26 EXERCIZING AN ABUSE OF POWERS UNDER THE COLOR
27 OF STATE LAW, THERE WAS A GREAT MISCARRIAGE OF
28 JUSTICE AND THE PROSECUTOR HAD NO AUTHORITY UNDER

1 DUE PROCESS OF LAW.

2 15) THE CONSTITUTION HAS PRECEDENCE AND AUTHORITY
3 ACCORDING TO THE 14th AMENDMENT WHICH FAR
4 SUPERIOR TO ANY ORDINARY STATE ACT OF LEGISLATURE.
5 IN RE: MARBURY VS. MADISON (1803) U.S. 137, 1 CRANCH
6 137, 2 LEd. 60 CRITIZED IN MALERS VS. UNITED STATES
7 (1926) 272 U.S. 52 71 LEd 160, 47 Sct 21)

8 16) THE COURT HAD NO DISCRETION OR AUTHORITY TO
9 IMPOSE A 667(C)(1) ALLEGED PRIOR FOR "5 YRS"
10 PER PRIOR STRIKE FROM A 1973 SENTENCE.

11 17) A "ROMERO MOTION" WAS HEARD AND ARGUED OF
12 WHICH WAS GRANTED FOR THE REASON(S) SET FORTH
13 IN THE RECORD: 1) THE AGE OF PRIOR OFFENSE AND
14 WHICH MITIGATED THE CIRCUMSTANCES OF THE "46 year
15 old prior. 2) BEING IN THE INTEREST OF JUSTICE.

16 18) UNILATERALLY MISTAKEN INTERPRETATION OR
17 APPLICATION OF LAW. CAL CIV. CODE § 1578 § 1689(B)(1).

18 FINALLY EVEN IF THE STANDARD PERMITTING RESCISSION
19 FOR CERTAIN UNILATERAL MISTAKES OF FACT APPLIED HERE
20 RESCISSION IS NOT AVAILABLE TO A PARTY WHOSE MISTAKE
21 OF FACT WAS THE RESULT OF HIS OWN NEGLIGENCE PER
22 CAL. CIV. CODE § 1577. SO HERE THE 1973 SENTENCE
23 PROSECUTION WAS FULLY AWARE AND HAD STILL MORE
24 ACCESS TO ALL THE 1973 PRIOR UNDER PENAL CODE § 667
25 (C)(1) NEVER EXISTED AS A STATUTE IN ANY CALIFORNIA
26 STATE PRISON SYSTEM AS A SEPARATE PRISON TERM
27 UNDER § 667(C)(1), SO BEFORE THE PRIOR WAS ENTERED
28 IN BAD FAITH BY PROSECUTORS "PER THE PLEA AGREEMENT

1 WAS EXCLUSIVELY THE RESULT OF HIS OWN NEGLIGENCE.
2 19) THE DEFENDANT ONLY DID WHAT THE LAW REQUIRED
3 WHEN EXERCISING HIS CONSTITUTIONAL RIGHTS.
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REASONS FOR GRANTING THE PETITION

Petitioner was convicted for 245ca on 1-14-15. The court sentenced DEF. to a "4 Year" base term and a 5 year enhancement that was centered from a statute that was enacted on 1-1-79 (I.E PC sec, 667.) Petitioner 1973 Prior Statute adopts by reference the provisions of another Statute and is not the Governing authority per enhancement. The sentenced served under Petitioner's 1973 Prior conviction is the predicate for Petitioner's current prior Prison Felony conviction enhancement which is improperly imposed. The Federal and State Constitutions each prohibit "Ex Post Facto" Laws. (U.S. const. Art I sec, 10 c 1 // Cal Const. Art sec 1 sec, 9) Such laws retroactively alters the law in a prejudicial manner by harsher penalties for review for prior offence. Thus new Statute is illegally imposed when used to enhance sentence.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Martin Eugene Jones

Date: 4-23-19

CONCLUSION

20) UPON THE ACCEPTANCE OF THE PETITIONER NOLO CONTENDER PLEA PURSUANT TO THE OPEN COURT PLEA AGREEMENT WAS BINDING ON BOTH SIDES. BY ALLOWING THE PROSECUTION TO BREACH THE AGREEMENT RELYING ON THE PROMISS THAT INDUCED THE PETITIONER PLEA AND LITIGATE. THE STATE COURT VIOLATED FEDERAL LAW CLEARLY ESTABLISHED BY THE SUPREME COURT IN RE SANTA BELO V. NY 404 US 212. IT FURTHER FURTHER VIOLATED CLEARLY ESTABLISHED FEDERAL LAW REQUIRING CONSTRUCTION OF THE PLEA AGREEMENT UNDER STATE LAW. GILMSON 483 US. AT 513 BICKLEY 441 F.3d AT 697.

21) ALSO THIS IS EVIDENCE AFTER THAT THE STATE PROSECUTOR'S REFILED AFTER THE DISMISSAL ON JANUARY 14TH 2015 BK# 494081.

22) HERE HE GAIN EMPHASIS BY REFILED ON JANUARY 14 2015. THE SAME DAY THE CASE WAS DISMISSED, PETITIONER WAS WITHOUT PUBLIC DEFENDER. D. BRIAN WOOD IN ORDER TO BE QUESTION FOR LACK OF EVIDENCE OR PROBABLE CAUSE TO REFILE. OR THAT THE ACTIONS WERE SUPERSTITIVE WITHIN ITSELF, AND AS A RESULT THE PETITIONER CONSTITUTIONAL RIGHTS WAS VIOLATED. EQUAL PROTECTION. DUE PROCESS MIRANDA.

23) IT IS EVIDENCE THAT THE PROSECUTION FORE WENT ADDITIONAL LEGAL RESEARCH AND INVESTIGATION IN ORDER TO SECURE A QUICK FAVORABLE RESOLUTION OF THIS CASE. NOW AGAIN THE GOVERNMENT PUTATIVE MISTAKE REGARDING WHETHER THE PETITIONER PRIOR CONVICTION CONSTITUTED AS A STRIKE UNDER CALIFORNIA LAW WOULD HAVE BEEN A MISTAKE OF LAW, NOT A MISTAKE OF FACT AND CALIFORNIA LAW DOES NOT PERMIT REVISION OF A CONTRACT BASED ON A PARTIES.

24) UNILATERAL MISTAKEN INTERPRETATION OR APPLICATION

1 OF THE LAW. CAL CIV. CODE §1578, 1689(B)(1), FINALLY EVEN
2 IF THE STANDARD PERMITTING RESCUSSION FOR CERTAIN
3 UNILATERAL MISTAKES OF FACT APPLIED HERE RESCUSSION IS NOT
4 AVAILABLE TO A PARTY WHOSE MISTAKE OF FACT WAS THE RESULT
5 OF ITS OWN NEGLIGENCE CAL CIV CODE §1577 SO HERE THE 1973
6 CONVICTION PROSECUTION WAS FULLY AWARE AND HAD AND
7 HAVE STILL MORE ACCESS TO ALL THE INFORMATION WITH
8 FULL KNOWLEDGE THAT THE 1973 PRIOR UNDER PENAL CODE
9 §667(a)(1), NEVER EXISTED IN THE CALIFORNIA STATE PRISON
10 SYSTEM AS A SEPARATE PRISON TERM UNDER §667(a)(2).
11 SO BEFORE THE PRIOR WAS ENTERED IN BALFOUR BY
12 PROSECUTORS, THE PLEA AGREEMENT WAS EXCLUSIVELY THE
13 RESULT OF ITS OWN NEGLIGENCE. THE PETITIONER ONLY DID
14 WHAT THE LAW REQUIRED WHEN EXERCISING HIS CONSTITUTIONAL
15 RIGHTS