

No. 18-9810

ORIGINAL

Supreme Court, U.S.
FILED

JUN 18 2019

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

CALIFORNIA

Erik Ward prose. — PETITIONER
(Your Name)

vs.

People OF The State OF California, et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

SUPREME COURT OF CALIFORNIA

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Erik D. Ward
(Your Name)

P.O. Box 5248
(Address)

Gorcoran, CA 93212
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

1. Can the court please review that Trial Counsel failed inadequate performance to perform procedure and due process, Base Upon jury lacked knowledge of the importance of "Intent" Penal Code § 664/187 (a).

2. My trial Counsel failed to inform me a 9 year deal would be for attempted murder without willful, deliberate, and premeditated murder. Can the Court please take this matter into consideration base upon the preponderance of the evidence to "Intent."

3. Can the court please review and decide to reduce the charges to attempted murder that is not willful, deliberate, and premeditated. Which is punishable by 5, 7, or 9 years in State prison?

. Can the courts please review the lack of physical evidence in this case to convict petitioner for attempted murder willful, deliberate, and premeditated.

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:

Jorge Navarrete Clerk Deputy

*Cantil-Sakauye
Chief Justice*

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	
STATEMENT OF THE CASE	
REASONS FOR GRANTING THE WRIT	
CONCLUSION.....	

INDEX TO APPENDICES

APPENDIX A	Decision of State Court of Appeals
APPENDIX B	Decision of State Supreme Court Denying Review
APPENDIX C	N/A
APPENDIX D	N/A
APPENDIX E	N/A
APPENDIX F	N/A

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

People V. Vargas (2014) 59 Cal.4th 635,	Page 3 of 6
Benton V. Md. 395 U.S. 784 (1969)	Page 6B.
Brown V. Ohio, 432 U.S. 161 (1977)	
JACKSON V. Virginia 443 U.S. 307 (1979)	page 4 of 6
61 L. Ed. 2d 560, 99 S. Ct 664,	
Vachan V. New Hampshire 414 U.S. 478, 38 L Ed 2d. 666, 94 S. Ct 664,	
Thompson V. Louisville (1990) 862 U.S. 194, 4 L Ed 2d 654, 80 S. Ct 627.	
235 Cal. App. 4th 1388 People V. Se K April 17, 2015	page 4 of 10
	page 4 of 11

STATUTES AND RULES

Petitioner's conviction was obtained as the result of evidence that is insufficient to persuade a properly instructed, reasonable jury of his guilt beyond a reasonable doubt...

Violation of Due Process and Equal Protection Finding Petitioner guilty of a crime with insufficient evidence to convict. Violation of Penal Code § 664 (10) and Due Process.

Attempted murder that is not willful, deliberate, and premeditated is punishable by 5, 7, or 9 years in State prison. (§ 664, Subd. (a).)

OTHER

In People V. Vargas, Supra, the California Supreme Court held "two prior convictions arising out of a single act against a single victim cannot constitute 2 strikes under the 3 strike law neither it cannot impose a life term under the 3 strikes law... Petitioner was given unconstitutional multiple sentences for committing a single criminal act against a single victim.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Petitioner's conviction was obtained as the result of evidence that is insufficient to persuade a properly instructed, reasonable jury of his guilt beyond a reasonable doubt... Violation of Due Process Equal Protection finding petitioner guilty of a crime with insufficient evidence to convict.

Violation of Penal Code Section 664(10) and Due Process. (Page 4 of 6)... (Page 4 of 11)...

Strickland v. Washington 466 U.S. 668 (1984).

Has a two prong test. One is deficient performance was counsel action below the standard of a reasonable counsel. A reasonable counsel would have made sure that if one thing was for sure that is jury would have made sure to understand the importance of "Intent."

Petitioner's conviction resulted from an error of constitutional dimension which was not shown to be harmless beyond a reasonable doubt... (Page 4 of 8)

STATEMENT OF THE CASE

On November 8, 2011, Petitioner was charged with attempted premeditated murder of Oscar Droscio (Penal Code § 664/187, subd. (a); Count 1), and assault with a deadly weapon upon Oscar Droscio (§ 245, subd. (a) (1); Count 2). As to each count it was further alleged that Petitioner personally used a deadly weapon, to wit, a cutting instrument (§ 12022, subd. (b)(1)), and personally inflicted GBI (§ 12022.7, subd. (a)) in its commission. On June 12, 2013, the jury returned guilty verdicts on both charged offenses, and true findings on all of the enhancing allegations. In August 23, 2013, Petitioner was sentenced to a total state prison term of life plus 6 years. The sentence on Count 1 included a life term for attempted murder, plus 3 years for the great bodily injury enhancement, and one-year for the weapon use enhancement. Petitioner received an additional 2 year for the prison priors (one-year for each). A timely notice of appeal was filed on August 23, 2013.

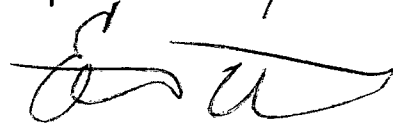
REASONS FOR GRANTING THE PETITION

Petitioner due process and equal protection rights was violated due to insufficient evidence of intent to kill to support PC § 664/187 in violation of PC § 664 10) and due process rights, denial of due process by Ineffective Assistance of Counsel in his closing argument counsel did not explain to the jury the importance of the elements of the crime "Intent," and its facts in this case. The due process clause protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged." In re Winship, 397 U.S. 358, 364, 90 S. Ct. 1068, 25 L. Ed. 2d 368 (1970). However, "[a] petitioner for a Federal writ of habeas corpus has a heavy burden when challenging the sufficiency of the evidence used to obtain a state conviction on Federal due process grounds." Juan H. V. Allen, 408 F.3d 1262, 1274 (9th Cir. 2005) Cert. denied, 546 U.S. 1137, 126 S. Ct. 1145, 163 L. Ed. 2d 1000 (2006). In particular to review the sufficiency of the evidence in a habeas corpus proceeding, the court must determine whether "any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt" Lewis V. Jeffers (Jeffers), 497 U.S. 764, 781, 110 S. Ct. 3092, 111 L. Ed. 2d 606 (1990) quoting Jackson V. Virginia, 443 U.S. 307, 319, 99 S. Ct. 2781 61 L. Ed. 2d 560 (1979) (*italic in Original*).

(continue on next page)

Petition shall be granted due to Applicable Law
above, There is no evidence to support a
conviction of premeditated attempted murder
and the verdict shall be reversed.

Respectfully Submitted

A handwritten signature in cursive script, appearing to be 'E. U.' with a long horizontal flourish extending to the right.

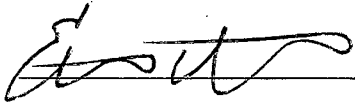
In Prose

Dated: 6-18-19

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 6-18-2019

DECLARATION

I Erik Ward declare the following to be true and correct:

That I am the Petitioner acting in Propria Persona in this case pertaining to Violation of Due Process And Equal Protection Finding Petitioner guilty of a Crime with Insufficient Evidence to Convict.

Trial Counsel in his closing argument did not explain to the jury the importance of the elements of the crime "Intent," and its facts in this case.

The only testimony that was brought out in trial was from the one eye witness Sean Gordon if he is to be believed did testified in trial, he observed the victim Mr. Drosco in the course of an argument attack the Petitioner first hitting him as he can with all his might in the face. By Sean Gordon own testimony Petitioner Mr. Ward had lefted and he did not see a weapon, Mr. Gordon testified in trial "NO. NO. I Didn't See Any Kind of Weapon." By the victim assaulting the Petitioner first in a drunken argument that there is "No Way" an "Intent" to Penal Code § 604/187(a). Killing the victim never occurred

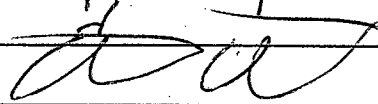
1 for we can easily say if the victim would have
2 never hit the petitioner no fight never would
3 have occurred for petitioner did not hit the
4 victim first, but only after he was assaulted
5 by the victim hitting petitioner in the face
6 with full force. Trial Counsel failed to explain
7 in his closing argument to the jury with
8 adequate information to determine whether
9 an "Intent" exists and, if so, who is in it and
10 who is not. By trial counsel not explaining
11 the importance of "Intent" the jury did find
12 petitioner guilty of a crime, premeditated
13 attempted murder. When "Intent" is the whole
14 bases of the case and its elements.
15 Where there is no evidence of "Intent" when
16 petitioner only responded to the assault by
17 the victim. Evidence must be presented in
18 order to substantiate the charge of
19 "Intent" Premeditated attempted murder
20 and none has been presented.

21
22 I Erik Ward declare the above stated to be
23 true and correct. Trial Counsel error was
24 not harmless beyond a reasonable doubt
25 and reversal is required.
26
27
28

CONCLUSION

For the foregoing reasons, the judgment must be reversed and the cause remanded for a new trial.

Respectfully submitted,



Erik Ward
In Propria Persona

Dated: 6-18-19