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[REDACTED]

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Corcoran, CA 93212-5244
In Propria Persona

SUPREME COURT OF THE UNITED STATES

Keith Jerome Wright
[REDACTED]

Petitioner/Appellant,

v.

M.ELIOT. Spearman, Warden,

Respondent/Appellee,

) No. 18-16363
) Court of Appeals for the Ninth Circuit
) No.: 2:16-cv-01806-JAM-EFB
) Eastern District of California, Sacramento

) **PETITIONER'S APPLICATION FOR**
) **CERTIFICATE OF APPEALABILITY**
) **FROM THE COURT OF APPEALS FOR**
) **THE NINTH CIRCUIT; AND**
) **STATEMENT OF REASONS IN**
) **SUPPORT**

INTRODUCTION

Petitioner hereby requests that the U.S. Supreme Court issue a Certificate of Appealability (hereafter "COA"), permitting Petitioner to appeal from the Denial Order entered by the Circuit Judges O'Scannlain and Gould, entered said Order on April 25, 2019, denying and dismissing any pending motions as moot in the above-entitled matter.

ISSUES ON WHICH CERTIFICATE OF APPEALABILITY IS SOUGHT

Whether the Court of Appeal erred in failing to provide petitioner due process by failing to consider either explicitly or implicitly his rights in failing to grant an Evidentiary Hearing, whether counsel was ineffective assistance in properly investigating the Petitioner's unlawful arrest and seizure of D.N.A, and prosecutors misconduct, which is a Due Process violation of Petitioner Constitutional Rights.

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MAY 17 2019

OFFICE OF THE CLERK
SUPREME COURT, U.S.

1 **LEGAL STANDARD FOR ISSUANCE OF COA**

2 In the U.S. Supreme Court decision in Miller-El v. Cockrell, 537 U.S. 322, 123 S.Ct.
3 **1029 (2003)**, the Court clarified the standards for issuance of a COA:

4 ...A prisoner seeking a COA need only demonstrate a "substantial showing of the denial
5 of a constitutional right. A petitioner satisfies this standard by demonstrating that jurists of
6 reason could disagree with the Court of Appeals for the Ninth Circuit's resolution of his
7 constitutional claims or that jurist could conclude the issues presented are adequate to deserve
8 encouragement to proceed further.

9 Id., 123 S.Ct at 1034, citing Slack v. McDaniel, 529 U.S. 473, 484 (2000). Reduced to its
10 essentials, the test is met where the petitioner makes a showing that "the petition should have
11 been resolved in a different mater or that the issues presented were 'adequate to deserve
12 encouragement to proceed further'." Id, at 1039, citing Barefoot v. Estelle, 463 U.S. 880 (1983).
13 This means that the petitioner does not have to prove that the Court of Appeals for the Ninth
14 Circuit was necessarily "wrong" – just that its resolution of the constitutional claim is
15 "debatable":

16 We do not require petitioner to prove, before the issuance of a COA that some jurists
17 would grant the petition for habeas corpus. Indeed, a claim can be debatable even though every
18 jurist of reason might agree after the COA has been granted and the case has received full
19 consideration that petitioner will not prevail. As we stated in Slack, where a Court of Appeals
20 for the Ninth Circuit has rejected the constitutional claims on the merits, the showing required to
21 satisfy §2253 (c) is straightforward: The petitioner must demonstrate that reasonable jurists
22 would find the Court of Appeals for the Ninth Circuit's assessment of the constitutional claims
23 debatable or wrong.

24 For the reasons stated below, the issues on which Petitioner seeks a COA are at least
25 debatable among jurist of reason. Hence, and even though this court's decision might ultimately
26 be affirmed on appeal, Petitioner is entitled to a COA on the issues set forth above.

27 **STATEMENT OF REASONS FOR ISSUANCE OF COA**

28 The Court of Appeals for the Ninth Circuit erred in failing to provide petitioner due process by
failing to consider either explicitly or implicitly his rights in failing to grant an Evidentiary
Hearing, whether counsel was ineffective assistance in properly investigating the Petitioner's
unlawful arrest and seizure of D.N.A, and prosecutors misconduct, which is a Due Process
violation of Petitioner Constitutional Rights..

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CONCLUSION

Dated: May 6, 2019

Keith Wright

PROOF OF SERVICE BY MAIL

I the undersigned, hereby declare:

1. I am a citizen of the United States: 2. I am over the age of 18 years and is a party to this case; 3. I am a resident of Kings County, in California. My mailing address is:

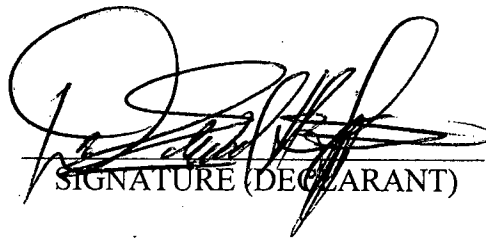
SATF/SP
PO Box 5244
Corcoran, CA 93212

On May 6, 2019, I served a true copy or original copy of the following: PETITIONER'S APPLICATION FOR CERTIFICATE OF APPEALABILITY FROM THE COURT OF APPEALS FOR THE NINTH CIRCUIT; AND STATEMENT OF REASONS IN SUPPORT, by placing said document(s) in a sealed postage paid envelope into the SATF/SP at Corcoran, mailbox for delivery to the United States Post Office at Corcoran, California, addressed as followed:

Supreme Court of the United States
1 First Northeast
Washington, DC 20543

And that this declaration was executed under the penalty of perjury of the laws in California and the United States of America at Corcoran, California 93212-5244, on May 6, 2019.

EDWARD B. SPENCER
PRINT NAME (DECLARANT)



SIGNATURE (DECLARANT)

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EXHIBIT A

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

APR 25 2019

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

KEITH JEROME WRIGHT,

Petitioner-Appellant,

v.

M. ELIOT SPEARMAN, Warden,

Respondent-Appellee.

No. 18-16363

D.C. No. 2:16-cv-01806-JAM-EFB
Eastern District of California,
Sacramento

ORDER

Before: O'SCANNLAIN and GOULD, Circuit Judges.

The request for a certificate of appealability (Docket Entry No. 2) is denied because appellant has not made a "substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2); *see also Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003).

Any pending motions are denied as moot.

DENIED.