

No. 19-_____

In the
Supreme Court of the United States

ARTHUR EDWARD EZOR,

Petitioner,

v.

SUPERIOR COURT OF LOS ANGELES COUNTY,
Respondent.

On Petition for Extraordinary Writ of Mandamus
to the Superior Court of Los Angeles County

**PETITION FOR
EXTRAORDINARY WRIT OF MANDAMUS**

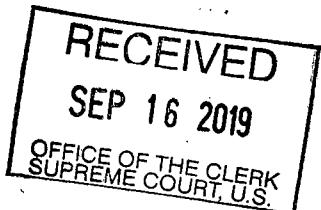
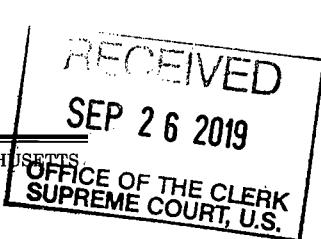
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QUESTIONS PRESENTED

1. Was it was a denial of procedural and substantive due process for the lower Court to not order dismissal of the subject criminal case with prejudice against Petitioner/Defendant Arthur Edward Ezor ("Ezor")?
2. Was it was a denial of procedural and substantive due process for the lower Court to not order dismissal of the subject criminal case with prejudice against Ezor due to a finding of prosecutorial misconduct?
3. Did the prosecutor's intentional intrusion into the attorney-client relationship constitute a direct interference with the Sixth Amendment rights of Ezor, and was it a *per se* violation of said Sixth Amendment?
4. Was Ezor denied the fundamental and due process right to a fair adversary proceeding as a criminal defendant due to the illicit actions of the prosecutor in violating the 6th Amendment?
5. Was Ezor denied equal protection of laws and treated disparately and unfairly from other criminal defendants by virtue of the aforesaid prosecutorial misconduct and denial of fair pretrial criminal proceedings?
6. Did the Honorable Supreme Court of California commit prejudicial constitutional and reversible error in not ordering the Superior Court of State of California for the County of Los Angeles to dismiss the criminal case against Ezor with prejudice, via the Writ of Mandate presented to it?

7. In the alternative to dismissing the criminal case with prejudice against Ezor, should the Honorable Supreme Court of California have issued a Writ of Mandate or Mandamus ordering the Los Angeles Superior Court to disqualify the entire District Attorney's Office of the County of Los Angeles, including District Attorney Jackie Lacey and Deputy District Attorney Kelly Howick. In not so ordering, despite a showing of prosecutorial misconduct by said District Attorney's Office, did the Supreme Court of California commit prejudicial constitutional and reversible error?

8. In the alternative to dismissing the criminal case with prejudice against Ezor, should the Honorable Supreme Court of California have issued a Writ of Mandate or Mandamus to the Los Angeles Superior Court ordering a stay of proceedings, ordering disqualification of the entire District Attorney's Office of the County of Los Angeles, including D.A. Jackie Lacey and Deputy D.A. Kelly Howick, and ordering the Attorney General of California, Xavier Becerra, to take over prosecution of the criminal case in place and stead of the aforementioned District Attorney's Office?

PARTIES TO THE PROCEEDINGS

The parties to the proceedings are as follows:

Petitioner

- Arthur Edward Ezor

Respondent and Party to Whom Mandamus is Sought

- Superior Court of Los Angeles County

Other Interested Parties

- The People of the State of California
- Attorney General of California
(Los Angeles Office)
- Los Angeles County District Attorney

TABLE OF CONTENTS

	Page
QUESTIONS PRESENTED.....	i
PARTIES TO THE PROCEEDINGS	iii
TABLE OF AUTHORITIES	vi
OPINIONS BELOW	1
RULE 20 STATEMENT	1
A. Name and Function of Parties to Whom Mandamus is Sought to be Directed	1
B. Specific Relief Sought	1
C. Why Petitioners Have Filed for Relief in This Court	2
JURISDICTION.....	2
CONSTITUTIONAL PROVISIONS.....	3
STATEMENT OF THE CASE.....	4
REASONS TO GRANT THE PETITION.....	5
CONCLUSION.....	7

TABLE OF CONTENTS – Continued

	Page
APPENDIX TABLE OF CONTENTS	
Order of the Supreme Court of California Denying Petition for Review and Application for Stay (May 1, 2019)	1a
Order of the Court of Appeals Denying Petition for Writ of Mandate and Stay of Proceedings (April 12, 2019)	2a
Order Denying Immediate Stay Request (April 8, 2019)	4a
Minute Order of the Superior Court of California (March 18, 2019)	5a
Petition for Review, Emergency Writ of Mandate, Stay of Proceedings and/or Other Appropriate Relief; Memorandum of Points and Author- ities; Exhibits—Relevant Excerpts.....	7a

TABLE OF AUTHORITIES

	Page
CASES	
<i>People v. Wiley,</i> 57 CA 3d 149, 129 CR 13 (1976)	6
<i>Schillinger v. Hayworth,</i> 70 F.3d 1132 (10th Cir. 1996)	6
<i>State v. Lenarz,</i> 22 A.3d 536 (Conn. 2011)	6
<i>United States v. Orman,</i> 417 F.Supp. 1126 (D.Colo. 1976)	6
<i>United States v. Wilson,</i> 289 F.Supp.2d 801 (S.D. Tex 2003)	6
CONSTITUTIONAL PROVISIONS	
U.S. Const. amend. V	3, 5
U.S. Const. amend. VI	i, 3
U.S. Const. amend. XI	3
U.S. Const. amend. XIV	3, 4, 5
STATUTES	
28 U.S.C. § 1651	2
JUDICIAL RULES	
Sup. Ct. R. 20.4(a)	2



OPINIONS BELOW

Arthur Edward Ezor v. Superior Court (People), Supreme Court of California, No. S255335. Order Denying Petition for Review and Application for Stay filed May 1, 2019. (Marked and attached hereto as App.1a and incorporated by reference herein).

Ezor v. S.C.L.A., Court of Appeal, 2nd Appellate District (California), No. B296721. Order Denying Petition for Writ of Mandate and Stay of Proceedings, filed April 12, 2019. (Marked and attached hereto as App.2a and incorporated by reference herein).

Neither of these opinions/orders is designated for publication.



RULE 20 STATEMENT

A. Name and Function of Parties to Whom Mandamus is Sought to be Directed

Petitioner seeks a writ of mandamus issued to the Superior Court of Los Angeles County.

B. Specific Relief Sought

Petitioner seeks an order directed to the Superior Court of Los Angeles County dismissing the criminal case against him due to the flagrant, ongoing and egregious violations of his constitutional rights by the People of the State of California in his case in the Superior Court of Los Angeles County.

In the alternative, Petitioner seeks an order directed to said Superior Court ordering that the Attorney General of California replace the District Attorney of Los Angeles County and that the latter be disqualified as moved, for the purposes of this prosecution and criminal case.

In the alternative, this Court should issue a stay to provide this Court sufficient time to review and consider the matters and serious constitutional violations before it rules on the merits. Such a stay and relief will also allow the opposing or interested parties sufficient time to submit pleadings and briefing, if they so elect, pertaining to the issues and relief sought by the present Petition for Extraordinary Writ of Mandamus.

C. Why Petitioners Have Filed for Relief in This Court

Petitioner has already previously sought a writ of mandamus in both the California Court of Appeals (App.2a) and California Supreme Court (App.1a) which were denied. Thus, with no further options for relief available in the California Courts, this Petition is appropriately presented to this Court.

JURISDICTION

This Petition for Extraordinary Writ of Mandamus is filed pursuant to Sup. Ct. R. 20.4(a). This Court has jurisdiction under 28 U.S.C. § 1651.



CONSTITUTIONAL PROVISIONS

The constitutional and statutory provisions involved are set forth in the 14th, 5th and Sixth Amendments.

U.S. Const. amend. V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

U.S. Const. amend. VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

U.S. Const. amend. XIV

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

**STATEMENT OF THE CASE**

The record discloses that, recently, the District Attorney of Los Angeles County and others with her office, including investigators, paralegals and deputy D.A. Kelly Howick, had illegal access to Ezor's attorney-client file for several months, reviewed same without his knowledge, and removed certain items, including confidential work product and privileged attorney-client correspondence and documents, such as trial strategy memos, without his knowledge, authorization or permission. One of his prior defense attorneys on the case improvidently gave the D.A.'s office access to Ezor's entire attorney-client file for purported discovery purposes, without Ezor's knowledge, authorization or permission.

Thereafter, a pro-prosecution Los Angeles Superior Court Judge, one Craig Veals, conducted a series of hearings on the prosecutorial misconduct at issue.

Despite Ezor clearly establishing the prosecutorial misconduct at issue, Judge Veals refused various motions by Ezor to dismiss the criminal case with prejudice, or, in the alternative, disqualify D.A. Lacey and her entire office and replace same with the office of the Attorney General of California (for, hopefully, a fairer and impartial review of the criminal case). Ezor also moved for a stay of proceedings (*i.e.*, his upcoming trial date), which stay was denied. Ezor sought mandamus review in the California Court of Appeal which was denied on April 12, 2019. Subsequently, the Supreme Court of California also denied mandamus review on May 1, 2019, hence this Writ of Certiorari to the U.S. Supreme Court on major constitutional grounds and violations.



REASONS TO GRANT THE PETITION

- (1) This case presents unique Constitutional questions of law and fact which have not been addressed by this Court before.
- (2) The District Attorney of Los Angeles County and her office violated the 6th Amendment right to counsel by intruding into Ezor's attorney-client file.
- (3) The actions of said District Attorney and her office also violated due process and Ezor's right against self-incrimination under the Fifth and Fourteenth Amendments.
- (4) The fundamental and due process right to a fair adversary proceeding is violated by such illicit

acts. *See Schillinger v. Hayworth*, 70 F.3d 1132, 1142 (10th Cir. 1996).

(5) Improper review of and interference with Ezor's attorney-client file created a strong presumption of "incurable prejudice" to Ezor. *United States v. Orman*, 417 F.Supp. 1126, 1133 (D. Colo. 1976); *State v. Lenarz*, 22 A.3d 536, 544 (Conn. 2011).

(6) The sacred trust held by prosecutors was violated in Ezor's criminal case. They violated the spirit and provisions of the California and U.S. Constitutions by their prosecutorial misconduct. Prosecutorial misconduct includes and refers to the use of deceptive or reprehensible methods. *People v. Wiley* (1976) 57 CA 3d 149, 162, 129 CR 13, 21.

(7) Courts should not tolerate prosecutorial misconduct, since this is an affront to constitutional norms and lawful processes. *See U.S. v. Wilson*, 289 F.Supp.2d 801 (S.D. Tex. 2003) [wrongful conviction overturned due to government attorneys lying to a court and presenting false evidence].

(8) The Court of Appeal of the State of California and Supreme Court of California violated Ezor's federally protected constitutional rights in not granting the relief requested.



CONCLUSION

An Extraordinary Writ of Mandamus should issue. The Supreme Court of California erred in law and fact and violated constitutional requirements by not granting mandamus relief, as prayed by Ezor. A stay should be granted pending review by the Supreme Court of the United States on the merits.

Respectfully submitted,

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SEPTEMBER 11, 2019