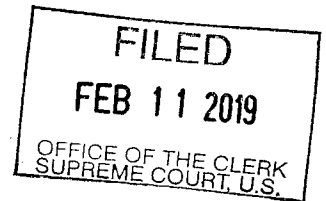


ORIGINAL

No. 19-5370



\_\_\_\_\_  
IN THE

SUPREME COURT OF THE UNITED STATES

\_\_\_\_\_  
PEDRO MEDINA CASTILLON — PETITIONER  
(Your Name)

vs.  
PEOPLE OF THE STATE OF CALIFORNIA  
\_\_\_\_\_  
— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO  
CALIFORNIA SUPREME COURT /IN THE COURT OF APPEAL OF THE STATE  
OF CALIFORNIA SIXTH APPELLATE DISTRICT

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

PETITION FOR WRIT OF CERTIORARI

PEDRO MEDINA CASTILLON

\_\_\_\_\_  
(Your Name) Centinela State Prison  
P.O.Box 901  
Imperial CA 92251

\_\_\_\_\_  
(Address)

Imperial California 92251

\_\_\_\_\_  
(City, State, Zip Code)

N/A

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

**QUESTION(S) PRESENTED**

#### IV.

#### QUESTION(S) PRESENTED

Petitioner Pedro Medina Castillon wishes and/or petition's this Honorable Court to review this State claim for purpose and in distinguishing from the often equally difficult inquiry in whether this case and/or Law presents or qualifies as a case "arising under the Laws of the United States" and the issue whether Federal and State claims constitute one "case" for pendent Jurisdiction purposes and may often appear together. U.S.C.A. Const, art 3, § 2. For a Federal Court to retain Jurisdiction of State Law claims under pendent Jurisdiction doctrine, the Federal claim must have substance sufficient to confer subject matter Jurisdiction on the Court;

The relevant facts of this case and countless others that involve Penal Code-192(a)) that are in conflict with the decisions of the Lower Court's and the Appellate Court's that have risen to National Importance that can only be brought to this Supreme Court of the United States, to decide the question(s) involved once and for all; Needless decisions of State Law should be avoided both as a matter of comity and to promote Justice between the parties by procuring for them a surer footed reading of established applicable Law. Recognition of a Federal Court's wide latitude to decide on questions of state Law.

The question whether permissible scope of State claim was limited by doctrine of pre-emption afforded a special reason for exercise of pendent Jurisdiction; Federal Court's are particularly appropriate bodies for application of pre-emption principles.

The "Heat-of-Passion" is and can be viewed as poorly, defined and highly susceptible to Judicial expansion; Its relatively brief history is colored by the case of misleading and/or the well known confusion instruction, that is the resulting "conviction" that needs better framing of Law.

The pleading and arguments of counsel to jury, and instructions which did not focus jury's attention upon its true attended Law and in not adequately define the compass within which concept could be kept within its limits towards proper application of State Law that meets the special proof requirements.

Such as the considerations and/or the likelihood of the jury's confusion in treating divergent legal theories of relief.

It is properly assumed as one which remains open throughout the litigation; Pretrial procedures or even the trial may reveal a substantial hegemony of State Law claims that has its expected jury confusion which could not have been anticipated (Fed, Rules Rule 42(b), 28 U.S.C.A.

People v. Kozee-Stoltz et al., D069073-Instructional error

The Court of Appeal found the instructional error was prejudicial when it could not determine that the jury rejected the improper legal theory in its findings of guilt on the charges- People v. Merritt E062540-instructional-error Opinion by Miller with McKinster. J King J.

Trial Court committed reversible error when it failed to instruct on the charged offenses-Following People v. Cummings (1993) 4 Cal 4th 1223, 1311-1312, Court of Appeal rejected the Attorney General's argument, the instructional omission was subject to harmless error analysis, because the error withdrew from the jury's consideration substantially all the elements of the offense, the error was reversible.

This Court can decide whether this part of the definition of the "Heat-Of-Passion survives the constitution's Prohibition of vague criminal Laws and/or perhaps its not the criminal Law, But rather the trial Court assessing the "potential risk" in imagining how the case of the crime subsequently plays out... Which would, and can fall on the speculative elements and quickly detaching from the statutory elements.

In all the confusion just add in the trial Judge's grave and uncertain estimation of risk posed by the crime on how and/or which instruction will and - will not tip the scales in removing the statutory element of Penal Code 192(a)

That is one of our biggest problems with specific Laws that involve particular elements that require the trial Court to follow and not go beyond the evaluating the Constitutional lens to the case, crime, offense that are presented in other trials, in remembering the framework in this specific law requires the trial Court to stay on the categorical approach provocation (

And this Court has acknowledged that the failure of "persistent efforts.....to establish a standard" can provide evidence of vagueness United States v. 1.-Cohen Grocery Co., 255 U.S. 81, 91 (1921) the previous decisions also resort to different (ad hoc test) to guide their inquiries, perhaps even more studies, that are available might also suffer from these flaws.

This Law Penal Code 192(a)) may or may not have any kind of degree needed and the concept of aggressive conduct is far from clear. We can only keep in mind as an addition to the statutory text, that is critically clear that there is guidance and/or the proper bodies that are appropriate if and when used correctly, the out-come under the Heat-of-Passion lesser included offence manslaughter-Penal Code 192(a).

#### CONTINUED QUESTION(S) PRESENTED

##### Particular Facts

Trial Court, Appeal Court, along with Appeal Attorney Alex Coolman used and argued the Component **"Temporal and Causal Nexus."**

Temporal having to deal with time or limits and Causal Nexus, to bind or link a cause and effect.

Causal Nexus exists if the result is a natural and reasonable out come or consequence of the activity (November 20, 2018).

Subjective, Objective Component;

Subjective is motivated by passion in committing the killing.

Objective; An ordinary person to react rashly and from passion.

Rather than the real Component;

Heat-of-Passion; Subjective A person be motivated by passion in committing the killing.

Objective by provocation. The Component(s) can go on forever, everyone wants to inject several other Contention(s) and/or some other improper instruction, that has added to the more jury contemporaneous conflict confusion, a specif disorder and later conviction.

A deliberating seated jury is to be guided correctly in its Fact-Finding Preeminent process.

CALCRIM No. 570 : And 570. Voluntary Manslaughter Heat-of-Passion-Lesser-

Included Offense(Penal Code, 192(a)) Both require the People to have the burden of proving beyond a reasonable doubt that the defendant did kill as the result of a sudden quarrel or in the heat of passion.

And if the People have not met this burden, you must find the defendant not guilty of murder.

The trial Court has a Sua Sponte duty to instruct on voluntary manslaughter on the heat of passion when evidence is "substantial enough to merit consideration" by the jury, People v. Breverman (1998) 19 Cal 4th 142, 153-163

## **VOLUNTARY MANSLAUGHTER Vs. MURDER**

The difference between the two is whether a person acted with malice aforethought, however when a person kills someone during a sudden quarrel or in the heat of passion California Presumes a person acted without malice this is the basis for the reduced charge of voluntary manslaughter....  
Penal Code 192(a) PC

### **CONFLICT EXISTENCE BETWEEN DECISION(S)**

Review is sought on Appellate Court(s) disagreement and/or decision(s) that are in conflict on the same issue, along with a very critical important function as the supreme Court is to resolve disagreement(s) among lower Courts about specific legal questions addressed and reasons that can compel the Court's discretionary Jurisdiction.

### **CASE CITATION AND REFERENCE TO LEGAL PROPOSITION COMPONENT**

Beltran 56 Cal 4th 935

People v. Berry 18 Cal 3d at p 515

People v. Brooks (1986) 185 Cal.App.3d 687

The two hours

People v. Lee (1999) (2002) 95 Cal.App.4th 772

People v. Borchers (1958) 50 Cal

People v. Kanawyer (2003) 113 Cal

People v. Fenenbock (1996) 46 Cal

People v. Rich (1988) 45 Cal

Appeal from Judgment of the Superior Court of the State of California for Santa Clara County Honorable Julia Alloggiamento, Judge.

In the Court of Appeal of the State of California Sixth Appellate District.

Trial defense Attorney and Appeals Attorney did little in there poor attempt in bringing true facts of persuasion, Penal Code 192(a) is neither a left or a right, nor is it a square nor triangle and/or not a circle not even a vertical perpendicular line it is a precise law established California Law not to be taken out of context that determine its meaning, as here, the trial Court and appeal action.

**570.MANSLAUGHTER:HEAT-OF PASSION-LESSER INCLUDED  
OFFENSE (Penal Code, 192(a))**

CALCRIM No.570 does not state that manslaughter require the defendant to have killed "under the direct and immediate influence" of Provocation.

The instruction also refers to a requirement to find "Provocation as I have defined it,(Judge) But failed to define Provocation, there is no legal basis and is contradicted by Established California Law, which simply requires that the defendant "Actually be Motivated by Passion in Committing the killing."

The trial Court Instructs that CALCRIM 570 requires a manslaughter verdict to be based on "Provocation as he defines it" But never defines Provocation nor was Provocation defined by any other Instruction.

In the lower Court and in the Appeal Court was prejudicial under any standard of review.

The Court erred in denying Appellant's requested instruction to defend against the entering of the "Cooling Off," element instruction once this bell was rung there was no unringing it thereby depriving Appellant of his right to present a defense and his right to due process under the Sixth and Fourteen Amendments of the Federal Constitution.

The propose pinpoint instruction on "Cooling Off" is a critical point both because the lower Court made it a central issue in this case in making it the relationship between Appellant's mental state ,which is not a component and does not have anything to do with the standard language of Penal Code 192(a) or CALCRIM 570 and the other being the "Cooling Off" another Non-Component which obviously and potentially mislead the jury.

Cooling Off should not have been a component for analysis under the 570 CALCRIM or the Penal Code 192(a).....

That is why it is important to stay on the proper legal established law because society expects the average person not to kill even when provoked just add a

QUESTION(S) PRESENTED CONTINUE

Perhaps, the trial Attorney Mr R. O'Conner could have missed and/or it was not easily apparent or readily visible, when trial Judge the Honorable Julia Alloggiamento read the verbatim CALCRIM No.570 in error for two reasons one stating that manslaughter requires the defendant to have killed "under the Direct and Immediate Influence" of provocation, and **Second**, But most important of all and the main reason we request review in this Honorable Court is the **misstatement** and/or the erroneous **misprint**, or incorrectly printing error that **misinterpret** the established law, and in doing so **mislead** or **deceive** the seated Jury in believing there was to be a Judge explaining the jury Instruction as a requirement to find "provocation As I Have Defined It," But, never did define the provocation, and the answer is that the trial Court never intended to.....

Additionally, we do know that the Appeals Attorney did know or at least had the time to figure and/or diligently choose to work hard carefully on this specific issue **verbatim** Judge read jury instructions.....

(Please see APPENDIX )

I. CALCRIM No.570 ERRS IN STATING THAT  
MANSLAUGHTER REQUIRES THE DEFENDANT TO HAVE  
KILLED "UNDER THE DIRECT AND IMMEDIATE INFLUENCE"  
OF PROVOCATION. THE INSTRUCTION ALSO REFERS TO A REQUIREMENT  
TO FIND "PROVOCATION AS I HAVE DEFINED IT,"(?????????)BUT FAILS TO  
DEFINE PROVOCATION..... Missing in the parenthesis is (ABOVE...

(APPENDIX )

Of course the trial Court may modify any propose instruction to meet the needs of a specific trial, So Long as the instruction given properly states the law and does not Create Confusion. The trial Court did not properly state the law and did create lots of confusion.

SAMPLE VERBATIM

CALCRIM No.570

Now, in order for heat of passion to reduce a murder to voluntary manslaughter the defendant must have acted under the direct and immediate influence of provocation as I've (I HAVE) defined it Above.



QUESTION(s) PRESENTED CONTINUE

perhaps, the trial Attorney Mr R. O'Conner could have missed and/or it was not easily apparent or readily visible, when trial Judge the Honorable Julia-Alloggiamento read the verbatim CALCRIM No.570 in error for two reasons, one stating that manslaughter requires for the defendant to have killed "under the Direct and Immediate influence" of provocation, and second, But most important of all and the main reason we request review in this Honorable Court is the misstatement and/or the erroneous mis-print or incorrectly printing error that misinterpreted the established law, and in doing so mislead or deceive the seated jury in believing there was to be a Judge explaining the jury instruction as a requirement to find "Provocation as I have defined it," But, never did define the provocation, and the answer is that the trial Court never intended to ..... Additionally, we do know that the Appeal Attorney did know or at least had the time to figure it out and/or diligently choose to work hard carefully on this specific issue verbatim must be establish instruction law read by the trial Judge to to the jury it is the duty of the Judge to know what is to be read to the seated jury trial jurors.

(Please see Appendix )

I. CALCRIM NO. 570 ERR IN STATING THAT MANSLAUGHTER REQUIRES THE DEFENDANT TO HAVE KILLED "UNDER THE DIRECT AND IMMEDIATE INFLUENCE OF PROVOCATION. THE INSTRUCTION ALSO REFERS TO A REQUIREMENT "PROVOCATION AS I HAVE DEFINED IT,"( ? ) But fails to define provocation.....

Missing in the parenthesis is the word above.

(Please see Appendix )

QUESTION(S)

The trial Court's Instruction error, here requires reversal of defendant/appellant Pedro Medina Castillon's First and second degree murder conviction.

In the words of the California Supreme Court and by Appeals Courts. The Instruction deficient because they failed to inform and/or as the Instruction stated as to define the "Provocation" the absence of such an Instruction can only mean that the seated jury were missing definition of "Provocation". The trial Court continued by responding to the jury with " can you "narrow" your questions and/or Readbacks, The trial Court probably meant to say was can you be more narrow-minded. Lets make no mistake on what this means, the record is clear the jury was never told and/or the jury was never given the Judges defined Instruction and the confusion and complexity of jury Instruction CALCRIM No.570 and the whatever added language the trial Court injected unconsciously or purposely infected and misstated law, this influencing

is a concise conclusion "confusion".

Petitioner Pedro Medina Castillon's argument for review is that this instruction error by trial Judge Julia Alloggiamento be given the required proceeding of clarity to the statutory interpretation and corrections.

No one will really ever know if the jury determined the correct CALCRIM No 570 which is; " If an average person was in the same position would they have done the same."

More then fifty percent would have done somewhat similar and because of the possibility exists and in accordance with the "Heat of the passion"the Court could and may reverse Appellant Pedro Medina Castillon's conviction.

When a trial Court instructs a jury on two theories of guilt one which may be have been correct and on another legally incorrect reversal is required.

As fo all stated facts and evidence that would have had a different outcome and verdict by the jury,especially when this specific instruction of law was not properly stated by trial Judge Julia Alloggiamento and/or misstated law caused or created more confusion.

This Honorable Court can and may grant review and/or the opportunity for the presentation of further evidence in the support of this Appeal petition,Writ of Certiorari.....

QUESTION(S)

The trial Court's instruction error, here requires reversal of defendant/appellant Pedro Medina Castillon's first degree murder conviction.

In the words of the California Supreme Court and by Appeals Courts, the instructions were deficient because they failed to inform and/or as the instruction stated define the "provocation" the absence of such an instruction can only mean that the seated jury was misled and incorrectly instructed and because of this consequence returned the first degree murder, simply because the jury was never provided the missing definition of "provocation."

The trial Court continued response can you "narrow" what it probably meant to be more narrow-minded.

Lets make no mistake on what this means the record is clear the jury was never told and/or the jury was never given the Judges defined instruction the confusion and complexity of jury instruction CALCRIM No.570 and the whatever added language the trial Court injected unconsciously or in purpose infected misstated law and this influencing was a concise conclusion confusion.

Petitioner Pedro Medina Castillon's argument for review that this instruction error by trial Judge Hon. Julia Alloggiamento be given the required proceeding clarity of the Statutory Interpretation and corrections.

No one will really ever know if the jury ever determined the correct CALCRIM - No.570 which is; if an average person was in the same position would they have done the same ...

More than fifty percent would do somewhat similar and because of the possibility exists under the heat of passion the court could reverse appellant Pedro-Medina Castillon's conviction.

When a trial Court instructs a jury on two theories of guilt, one of which may have been correct and on another legally incorrect reversal is required.

For all stated facts and evidence that would have had a different outcome and/or a different verdict by the jury, especially when this is a specific instruction of law and that the trial Judge did not properly state the law and did create more confusion.

This Honorable Court can and may grant review and/or the opportunity for the presentation of further evidence in support of this Appeal Certiorari petition.

## PROBATION REPORT AND ASSESSMENT

1.) Petitioner/Defendant's Defense Attorney Deputy Public Defender Roderick O'Conner On June 17,2015 sent an electronic mail to the Probation Office requesting that Pedro Medina Castillon not be interviewed.

Two or more bad decision deciding issues here :

1. Defense Attorney never had an available Assessment done and/or a health or mental health evaluation nor did the trial Court authorize and/or official approval.

This can not be a defense attorneys strategic planning of course not and on the same token why would you not provide any assessment especially and/or the jury is looking for some kind of explanation or this high expectation to help explain this particular detailed facts to establish whether to go one way or the other as this is a very specific jury fact finding process regarding the charges and/or the very specific instruction "Heat of Passion-Lesser included Offense/voluntary manslaughter (Penal Code 192(a)).

We are missing the most important and/or the most significant value of this created law it stands on clearly established United States Law and it is not be rewritten changed nor to make the defendant sit paralysis and allow the jury to think or to guess rather than to use the proper tools in there fact-finding deliberation.

## 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:

Superior Court of the State of California for Santa Clara County.

In the Court of Appeal of the State of California Sixth Appellate District.

The Supreme Court of California.

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## TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
People v. Logan (1917)	175 Cal.45,49[164 p,112]
People v. Beltran (2013)	56 Cal.4th 935
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People v. Berry (1976)	18 Cal.3d 509
People v. Lopez (2008)	168 Cal.App.4th 801

## STATUTES AND RULES

The Supreme Court of California( Judge's Corrigan,Cantil-Sakauye,Kennard,  
Baxter Werdegarr, Chin, Liu.

## FEDERAL CASES

Carella v. California (1989) 491 U.S.263  
Chambers v. Mississippi (1973) 410 U.S.289  
Chapman v. California (1967) 386 U.S.18  
Conde v. Henry (9th Cir 1999) 198 F.3d 734  
Wooten v.Kirkland (9th Cir.2008) 540 F.3d 1019  
Mathews v. United States (1988) 485 U.S.58

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 Boyde v. California 494 U.S. 370; 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 Gilmore v. Taylor No. 91-1738 Certiorari; 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 People v. Beltran (2013) 56 Cal.4th, 935

☒ reported at People v. Logan (1917) 175 Cal. 45, 49 [164p112]; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

The Supreme Court of California, Hon. Judge's  
Corrigan, Cantil-Sskauye, Kennard, Baxter Werdegarr  
The opinion of the Chin, Liu. court  
appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at 56 Cal.4th, 935; 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 \_\_\_\_\_.

☐ 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 Nov 14, 2018. 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

Penal Code 192(a)

U.S. Const.,

Eighth Amendment, 14th Amend, 6th Amend

## STATEMENT OF THE CASE

On August 28, 2014, the Santa Clara County District Attorney filed an information accusing appellant of two counts of first degree murder ( 187), with the additional allegations that appellant personally discharged a handgun causing the death of a person other than an accomplice ( 12022.53, subd.(d)), and the case involved two people ( 190.2, subd.(a)(3)). (1 CT 135).

Opening Statements in the jury trial began on April 27, 2015. (2CT 353.) On May 11, 2015, the jury convicted appellant on both counts and found true all the special allegations. (2CT 453-457; 8RT 1021-1022.) On July 10, 2015, the Court sentenced appellant to two consecutive to a term of 50 years to life. (2CT 498-499; 8RT 1040.)

Appellant filed a timely notice of appeal on August 10, 2015. (2CT 504.)

## STATEMENT OF FACTS

What made this case a little harder, was the fact that the defense did not argue CALCRIM No. 570 (2006 version) explaining voluntary manslaughter based on heat of passion, and defense counsel could have requested the instruction be modified to better clarify that the jury could find defendant acted in heat of passion even if he intended to kill the victims.

The trial Court and the parties agreed that heat of passion was to be applied in appellant Castillon's case. (see People v. Lasko (2000) 23 Cal. 4th 101, 108. The defense did not dispute that appellant shot and killed victims in this case. The trial Court's central issue at trial had to do with appellant's state of mind but yet never gave any Court orders for any examination and/or any mental analysis.

Along with defense Attorney stating to the jury "there is no question that he killed [the victims]. The question is, is he guilty of murder ?" ].)

Appellant Castillon was more than dating Marybel he was in a relationship and shared that apartment 370 North Seventh Street San Jose California and not as the Court emitted, dating and ex-boyfriend, it was also the trial Court's duty to assure that there is no confusion in names that did not happen here as both appellant and victim are named Pedro the record is riddled with Pedro confusion the trial Court did not allow in a few very important key pieces of available true facts of evidence (Appendix, ) Restraining order against Pedro Jimenez (victim) and the Investigative report done by the Public Defender Office On Pedro Jimenez (victim) FACEBOOK threat and also the very most important of

all, But of course we invite this Honorable Court to prove this fact not true the Santa Clara Superior Court, and the Santa Clara District Attorney's Office along with the Santa Clara Public Defender's Office are in possession of test and/or pregnancy test results that showed and proved that Pedro Medina Castillon (appellant) was the true Father of weeks old fetus, this can only be the conduct and/or actions that are recognized that in response to Pedro Jimenez's (victim) provocation and/or provoked Pedro Medina Castillon to violence in heat of passion, thus negating malice, if the jury had been instructed with respect to this option..

No one is suggesting that the evidence in this record, could or would support a finding that the homicide was justifiable. But Pedro Medina Castillon was certainly entitled to have the jury instructed properly on the law that would apply if it were to accept his version of the facts. People v. Wickersham, 32 Cal.3d at pp.323-324.

United States Constitutional law is not the role of the dice and/or the lottery it is real law which keeps the shine of the Constitution from getting dull, but must always be vigilant of Judge's willing to embark or to support dysfunctional erroneous law that can one day stain the shine of the Constitution and/or the value of fairness and Justice

In a criminal trial, whether at the State or Federal level the Prosecution had the opportunity to prove and/or disprove the elements of the offense of the facts necessary to establish each of the elements "Sullivan v. Louisiana, 508, U.S. 275, 277-278, 113 S.Ct. 2078, 124 L.Ed.2d 182 (1993) and In Winship 397 U.S. 358, 363-64, 90 S.Ct. 1068, 25 L.Ed.2d 368.

The Court or the prosecution can not add there own elements and/or speculate or conjure up there own to the jury.

Penal Code 192(a) standards play a vital role in the American Scheme of the Criminal Procedure, and is a prime instrument for reducing the risk of any convictions resting on factual error.

The jury must be instructed correctly, and appellant Pedro Medina Castillon's jury was not. These issues require and call for Judicial Interpretation, and keeping in mind the rational function that the doctrine is designed to serve and its goal of avoiding any unfairness that might redound from to broad an application.

Unfortunately, that did not happen in this case, the function did not protect nor serve appellant Pedro Medina Castillon.

The trial Court has a duty to instruct the jury on general principles of law relevant to issues raised by evidence and establish proper law which are necessary for the jury's understanding of the case and anything less is error.

## REASONS FOR GRANTING THE PETITION

Petitioner Pedro Medina Castillon, understands that it is not a right but of Judicial Discretion.

And not to correct errors in the lower Court decisions, but to decide cases presenting issues of importance beyond the particular facts and parties involved and may or may not hear this Petition for Writ of Certiorari

The reason for Granting this petition is the importance of existing conflict between the decision of which review is sought as this Court has its very important functions of the Supreme Court to resolve disagreements among all the lower Courts about Specific legal element issues and questions, as this modified proposed instruction did not meet the specific proper stated law and did cause the confusion that we have that will always cause the wrong approach and wrong legal principles that severely compromise lots of men and woman.....

### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Pedro Castillo M

Date: February 8, 2019