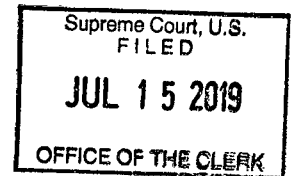


No. 19-5665

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



Douglas Doyle — PETITIONER
(Your Name)

vs.

Rick Hill — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. District Court - (Eastern Dist. of Cal.)
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

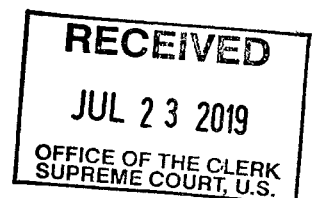
PETITION FOR WRIT OF CERTIORARI

Douglas Doyle
(Your Name)

P.O. BOX 950
(Address)

FOLSOM, CA, 95763
(City, State, Zip Code)

N/A
(Phone Number)



QUESTION(S) PRESENTED

Pursuant to U.S. Sup. Ct. rule 14.1(a).

"In 2008, Petitioner was convicted of a 'misdemeanor' D.U.I. (V.C. § 23152). This was elevated to a 'felony' under V.C. § 23550.5(b)(2001), by a 1988 prior D.U.I., under P.C. § 191.5(a). A 2007, conviction under P.C. § 245, was used to 'Strike Out', petitioner, 25yrs. to life."

- 1) Was this illegal bootstrapping? (Double Punishment).
- 2) Does V.C. § 23550.5(b), violate Due Process 14th Amend?
 - i) it only requires (1 year and 1,000 dollar fine)
 - ii) 10 year washout period. (a.)
- 3) Under "Three Strike law[s]" is this excessive under 8th Amend?
- 4) Did the State violate Due Process by not exercising their discretion to Strike a 20 year old prior under State law?
- 5) The "Preamble" incorporated in Proposition 184, does it not require a Third Strike to be "violent" under P.C. § 667.5(c)?
- 6) If Prop. 184, requires a third strike to be violent, does it not supersede (AB 971(1994), stats 1994, ch. 12)?
- 7) Is it, not "Common Knowledge", that if both Statutes are equivalent one must be made void or what is the purpose of the other? (Should not conflict).

QUESTION(S) PRESENTED

Pursuant to U.S. Sup. Ct., rule 14.1(a).

- 8) Should a Misdemeanor violation of a Vehicle Code (when no harm done to a person or property), be allowed to be elevated to a Felony, then be allowed to be struck out by Three Strike Laws?
- 9) Is it cruel.. and "unusual" when a possible 10 year sentence turns into 25 years to life, esp., (In last decade no California case law opinions.. are like this case.)
- 10) Why is the Original Preamble of Proposition 184 (1994), "missing" or not attached?
- 11) Can V.C. § 23550.5(b), be retroactively applied to a 20 year old prior (Pen.C. § 191.5)?
- 12) Does the conflict of (Pen.C. § 667(b), "who commit a felony") and (Pen.C. § 1170.12(a), "been convicted of a felony"), matter?
NOTE: (Petitioner sentenced under 667, committed a misdemeanor, (Abstract of Judgment shows primary charge as a misdemeanor, [with] a prior conviction.)
- 13) Is Petitioner being "treated differently, as other people similarly situated?"
- 14) Is the sentence proportionate and laws uniformed?

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:

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

STATUTES AND RULES

28 U.S.C. § 2254(d)(1), (2).

OTHER

► U.S. Sup. Ct., rule 10,

'A state court and U.S. Court of Appeals, has decided on an important question of federal law, that has not been, but should be, settled by this Court and has decided an important federal question in a way that conflicts with relevant decisions of this Court.'

I.e., 'Can a misdemeanor charge be elevated to a Felony and then again be used to convict a life sentence, when normally would constitute a year or ten years!'

Pursuant to "Double Jeopardy, Liberty Interest and Due Process of the 5th Amend."; 'Fair Trial' of the 6th Amend.; 'Cruel and unusual punishment' of the 8th Amend. and, 'Due Process of the Law', by the State, 14th Amend.

Here state court of appeals and U.S. District Court, last decisions, (Cal. Supreme Ct and U.S. Ninth Circuit, simply denied.)

► The U.S. Court of Appeals for the Ninth Circuit denied the C.O.A., without cause, although based on state law, it violates federal due process.

► RELEVANT DECISIONS OF THIS COURT

- Allen, 482 U.S. 369 (1987) "Excessive punishment".
 - Lanier, 520 U.S. 259 (1997) "Lesser punishment".
 - Kurth R., 511 U.S. 767, 769 fn. 1 (1994), 'multiple punishment'.
 - Jones, 491 U.S. 376 (1989), 'resentence'.
 - Church Lukumi, 508 U.S. 520 (1993), "Statute cannot pass strict scrutiny test under 14th Amend".
- see, U.S. Const., art. 1, §10 (State power, prohibitionist).
- Cleburne, 473 U.S. 432 (1985) "Equal protection - treating similarly situated people differently with respect to the law at issue".
 - Ex parte Lange, 85 U.S. (18 Wall.) 163, 178 (1873), "the current sentence, cannot lawfully be for the prior crime; has to be for the present one".
 - Furman, 408 U.S. 238 (1972), 'Cruel & Unusual for a misdemeanor vehicle violation (with no victim, or property violation) become a vehicle violation, based upon a 20 year old prior, not current charge! [Life Sentence]'.
 - Graham, 130 S.Ct. 2011 (2010), "Sentence is not based upon the [culpability] nor upon the law of the crime charged".
 - Palko, 302 U.S. 319 (1937), "Substantial due process violation, when State arbitrarily deprived liberty".
 - Trop, 356 U.S. 86 (1958) "8th Amend".
 - Strickland, 466 U.S. 668 (1984) "I.A.C."
- see, Wasko, 820 F.2d. 1090, 1091 n.2 (9th 1987) "Punishment excessive".

- Rinaldi, 384 U.S. 305 (1966), 'Equal protection - rationality in the class singled out.' (Only case in California).
- Garrett, 531 U.S. 356, 366 n.4 (2001), 'similarly situated in relevant respects'.
- Reed, 404 U.S. 71 (1971), 'classification, must rest on ground of difference having, fair and substantial relation to object of the legislation'.
- Griffin, 479 U.S. 314 (1987), 'Treated the same on Direct appeal.'
- Riggs, 525 U.S. 1114 (1999) (Serious Question worthy of Review), 4 years later, not 8th Amend, violation Lockyer, 538 U.S. 63 (2003).
 ▶ Riggs, it was a misdemeanor (P.C. § 666). In Petitioner's case misdemeanor (V.C. § 23152), 'Vehicle not Penal.'
- O'Sullivan, 526 U.S. 838 (1999), 'Exhaustion of state court'.
- Williams, 472 U.S. 14, 27 (1985), 'irrational of classification, by its own "Boostraps", impermissible under 14th Amend'.
- see, Wilson V. Knowles, 638 F.3d. 2012 (9th Cir. 2011), appeal after remand sub. nom. People V. Wilson, 219 Cal. App. 4th 500 (2013);
 "State only cited one (unpub.) case, during appeal, People V. Wilson, WL 31875999 (2002) (12/23/02), to justify [Only Case] of a misdemeanor DUI, elevated to felony, then struck-out as Life sentence." (Respondents Brief at p. 58 n.8). (9 yrs. old.)
 Cf. (Opening Brief at pp. 81-82). * States only case, "Vacated," supra.

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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 A 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 B 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 C 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 of Appeals court appears at Appendix C 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 April 25, 2019.

☒ 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 2/11/14.
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

U.S. Constitution, art. I, § 9, art. III, art. VI(2)(3);
Amend V (Double Jeopardy; Liberty interest; Due Process);
Amend VI (Fair trial; effective Counsel); Amend VIII (cruel
and unusual punishment); Amend. XIV (Due Process; Liberty;
Equal Protection).

28 U.S.C. § 2254(d)(1), (2); 28 U.S.C. § 2253; 28 U.S.C. § 1651;
28 U.S.C. § 2254(a).

STATEMENT OF THE CASE

"In 2008, Petitioner was convicted of a misdemeanor D.U.I. (V.C. § 23152(b)). Petitioner had a prior D.U.I. under (P.C. § 191.5), in 1988. Pursuant to V.C. § 23550(b), elevated "misdemeanor to a Felony." Cf. (V.C. § 23153)."

Petitioner's prior D.U.I. in 1988 of (§ 191.5), had to be within (V.C. § 23153), thus falling within the 10 year washout of (§ 23550.5(a)(2)).

Petitioner plead guilty on the "assumption and according" to punishment of (§ 23550.5(b), "1 year and 1,000 fine".)

Instead used my Guilt to "Double Punish". Under Cal. Const. art. I, § 32, the primary charge is [not] Violent under P.C. § 667.5(c), "and excludes enhancements".

► The "Thing" here or the elephant in the room is the [Two], "Three Strikes Law[s]":

- 1.) March 7, 1994 (Stats, ch. 12, § 1, at p. 71)
- 2.) November 9, 1994 (Prop. 184)

See, Cal. Const. art. II, § 1 (Political power in the People); art IV, § 9(9) Statute shall embrace but one subject, part not expressed, Void).

The Thing is the [P]reamble of Prop. - 184, the original proposition required a Third strike to be violent, under P.C. § 667.5(c). * This has been, "Missing".

On, 3/12/94 (AB-971, (1994), Stats, 1994, ch. 12), now
Pen. Code § 667(b)-(i), "serious and/or violent", felony.

On, 11/8/94 (Proposition-184).

Pen. Code § 1170.12(b)(1) "serious or violent", under (Pen. Code § 667.5(c) or § 1192.7(c)) "Identical Why?", or are they?"

► The "Preamble" incorporated in (Prop. 184), "did indicate third strike must be violent," see Carter, 298 U.S. 238 (1936); Corn Glass Co., 868 F.2d 1251, 1257 (Fed. Cir. 1989) (Preamble's).

It makes [No], logical sense in, "law or lay."

An independent review of the Preamble of Prop. 184, could resolve the issue the California Supreme Court, would not. Hazelton, 14 Cal. 4th 101 (1996).

Justices Mosk and Kennard, did not resolve this issue, Prop. 184, did not, supersede or repeal AB-971.

It, the Preamble of Prop. 184, allows only a violent felony to be struck out, "State Legislature abused its power." Gregg, 428 U.S. of, 173.

Is it a coincidence since then (Propositions 8, 36, 47 and 57), require Non-Violent charge?

Is this the reason, of the booming of prisons in California and mass population, the "5th biggest city in the world, CDCR and U.S. prisons."

Cf. (F.R.A.P. rule 32.1) (Fed. Cases),

To highlight petitioner's position that his prior conviction was "washed-out," over two decades ago, I cite:

People V. L. Moreno, (Opinion, #FO 74533), Superior Court No. F13903993, (5th App. Dist), "unpub." In Moreno, (at, p. 12),

"The D.U.I., prior (V.C. § 23152(b)), occurred within 10yrs, of his present charge (V.C. § 23560), i.e., 2010 and 2013."

(Moreno filed in, 1/24/19) (During this Appeal in Ninth Circuit.)

Appeal and C.O.A. filed or submitted to 9th Cir., on 7/24/18, and on 4/25/19 (No. 18-16507), Order, "DENIED," leaving,

"90 days for review of this High Court of the Nation."

California has simply disregarded the "Washout-period," of V.C. § 23550.5(b) (10 years). This is the difference of "time served," and "life sentence."

Under "Three Strikes Law," my prior in (1989), and recent D.U.I (2008), elevated to a Felony, to Strike me out!

Cf. (AB 971 (1994), Stats 1994, ch. 12), "any Felony".

(Prop. 184 (1994), "violent felony". see, Preamble.)

Carter, 298 U.S. 238 (1936); Corn Glass Co., 868 F.2d. 1251 (Fed. 1989)

Proposition by the People should have superseded the First three strike law, Cf. (Hazelton, 14 C.4th 101 (1996)); Cal. Const., art. II, § 1.)

If a 'Washout' period exists and/or the Preamble of Prop. 184, exists, Petitioner cannot receive a life sentence

"Not proportionate to offense, not uniformed in sentence as other offenders for same offense under similar circumstances,"
"Legislature Declares". Penal Code § 1170(a)(1).

The Political power of [P]eople must in California, the oppressions must end. (Cal. Const., art. II, § 1, superseded, (AB-971 (1994), stats, 1994, ch. 12) The Preamble, is the factor to repeal the other. "it must be Violent."

► We must evaluate the "intent of the people," in the preamble of Prop. 184. If, so the "primary charge" of (V.C. § 23/52), would not "strike out," petitioner. (29yrs. to life.)

The Test for, (V.C. § 23550.5(b)), must be under 14th Amend. Church, L.B.A., 508 U.S. 520 (1993).

The crime of V.C. § 23152, with no injury, does not fit the time of 29 years to life. Graham, 130 S.Ct. at 2028 (2010).

Not to mention clear abuse of discretion not to strike a (20 year old prior), in the interest of justice. Romero, 13 C.4th 497.

► If the State converted the "misdemeanor into a felony," under (§ 23550.5(b)), "the punishment must be one year in state prison and a fine of \$1,000⁰⁰."

NOTE: (The Three Strike Law[s], describes what [F]elonies constitute a strike (Pen. C. § 667.5(c)(1)-(23); § 1192.7(1)-(42).)

Petitioner's "elevated-felony" of (V.C. § 23152(b)), does not meet criteria of "Serious nor Violent".

► 667.5(a), "where one of the new offenses is one of the Violent felonies specified in subd.(c)... No additional term served prior to a period of 10 years, defendant remained free

1192.7(a), "any Serious felony," [No plea bargain] on D.U.I. (no reduction resulted in substantial change in sentence.)

"The converted Felony, of 'misdemeanor', a recidivist punishment for current offense. (V.C. §23152), and involves, a double punishment for prior offense (P.C. §191.5).
▶ violates 5th Amend (Double Jeopardy); Ex Parte Lange, 85 U.S. (18 Wall.), at p. 176. see, Carmony, 127 Cal. App. 4th at p. 1080.

see, In re Shull, 23 Cal. 2d. 745, 751 (1944), "No bootstrapping for double punishment." Coronado, 12 C. 4th 145, 153 (1995); Chun, 45 C. 4th 1172 (2009).

▶ 14th Amend. violated: Harrott, 25 Cal. 4th 1138, 1154 (2001); Lanier, 520 U.S. 259, 265 (1997). see also, Wasko, 820 F.2d. 1090, 1091 n.2 (9th Cir); Allen, 482 U.S. 369, 373-78 (1987).

"Multiple punishments contravening state law". Kurtz Ranch, 511 U.S. 767, 769 n.1 (1994); Jones, 491 U.S. 376, 381 (1989).

"Equal protection". Cleburne, 473 U.S. 432, 439 (1985); Ho/sheier, 37 Cal. 4th 1185, 1199 (2006).

NOTE: "Petitioner committed a 'Misdemeanor' and his conviction does not change the fact, that a prior altered it to a felony." his culpability remains focused that he still only committed a misdemeanor."

"A construction contrary to Briceno, 34 Cal. 4th 451, brings a serious Constitutional question on (8th and 14th Amendments). See, Engram, 50 Cal. 4th 1131, 1161 (2010). See also, Valenzuela, 172 Cal. App. 4th at p. 1248-49; Delacy, 192 Cal. App. 4th at p. 1493. Petitioner's "culpability". Graham, 130 S.Ct. 2011 (2010).

See, Mullaney, 421 U.S. 684 (1975).

It is implausible, to discern such a 'Cruel and Unusual sentence of Life', caused by a [M]isdemeanor, vehicle violation, esp., with no harm done. (8th Amend.). In re Nunez, 173 Cal. App. 4th at p. 738 (quoting, Furman, 408 U.S. 238, 309.) Violates Due Process of the Law.

"The basic concept underlying the 8th Amend. is nothing less than, the dignity of man." In re Nunez, at p. 724 (quoting, Trop, 356 U.S. 86, 100 (1958)).

"Due process requires the State not act Arbitrarily in contravention of Liberty." Palko, 302 U.S. 319, 327 (1937); (In re Terry, 83 Cal. App. 3d at p. 903)

"A [misdemeanor] violation of the V.C. § 23152, that turned into a 25 year to life, sentence is quite 'Unusual'." Schueren, 10 Cal. 3d at p. 560, fn. 9 ('Unusual, means exactly what it says.')

➤ Through 'Published and Unpublished', California opinions, at least a Decade, .. [No] other case like this.

Take notice of the violation of V.C. § 23152, it is a simple "misdemeanor", slightly above the legal limit of (C.O.S.), "no harm or bodily injury or destruction of property".

Now a "21 year old prior in 1987" (Pen.C. § 191.5), it elevated to a Felony, under (V.C. § 23550.5(b)), "but" the punished is defined as (1 year in prison and \$1,000 fine). Also having a 2007 prior of (Pen.C. § 191.5), petitioner receive's a (25 yr. to Life) sentence!

This specific type of sentence is "Unauthorized".

Anderson, 50 Cal. 4th 19, 26 (1994).

Bootstrapping is illegal. Jones, 5 Cal. 4th at 1149 (1993).

► Briceno, 34 Cal. 4th 451 and Ulloa, 175 Cal. App. 4th 405 (2009),

"Petitioner contending these Authorities, that prohibit, [trial/court] from treating a misdemeanor as a strike",

on grounds that either (P.C. §§ 667.5(c) or 1192.7(c)), include (V.C. § 23152), elevated to "felony".

see, Jones, 47 Cal. 4th 566 (2009), Morgan, 194 Cal. App. 4th at p. 86-87.

The Three Strike Law[s], whether "committed or convicted", is nowhere defined. And nowhere does it state a Misdemeanor can be used, elevated, double or so forth.

V.C. § 23550.5(b). "Every person who, having previously been convicted of a violation of (P.C. § 191.5)... is subsequently convicted of a violation of (V.C. § 23152), is guilty of a public offense punishable by imprisonment in the state prison or confinement in a county jail. (1-year and \$1,000⁰⁰ fine), i.e., "the punishment".

NOTE:* (Petitioner has a Pen.C. § 245 (assault), prior.)

Information filed on 2/9/09.

Count 1: V.C. § 23152(a). "Misdemeanor".

Count 2: V.C. § 23550.5(b) "elevated to felony by a prior 1988,

* Pen.C. § 191.5(a), conviction", prior: (C734).

And a 2007 prior Pen.C. § 245. (C736).

State denied motion to Strike, 20 year old prior, under Romero, 13 Cal.4th 497 (1996). (CT64, 129, 131, 149).

Pled guilty to (23152) on 12/13/10, and to renew Romero, request. (CT263) (RT134-39) (RT163).

On 2/2/11, Petitioner sentenced to 25yrs to Life under "Three Strikes Law". (CT267). On 3/22/11, I appealed.

The 1988 prior, was used to elevate to felony and then felony used under Three Strikes, "Double dipped". Hitting "Two birds, with one stone". Bootstrapping prohibited under state law. Brigano, 34 Cal.4th 451, 465 (2004).

➤ the [Two], Three Strikes Law[s], "conflict".

1) Section 667(b), "for those who commit a felony".

2) Section 1170.12(c), "has been convicted of a felony".

NOTE: (Petitioner charge of V.C. § 23152(b), does not fall within "Serious Felony" under P.C. § 1192.7(c), nor within "Violent Felony" under P.C. § 667.5(c).)

The Statute's "conflict", leaving a "Vague or ambiguous," interpretation under, Johnson, 135 S.Ct. 2551 (2015)

➤ Here petitioner was "Stayed", enhancement of (667.5(B)), and given enhancement of (1170.12(A)-(D)).

Would not the "stay", be illegal, because he did not "commit" a felony, it was [converted] into a felony?

*** Petitioner was sentenced under, (667(b)-(i)):

Cal. Pen. Code § 667(b), "It is the intent of the Legislature in enacting subd. (b)-(i), inclusive, to ensure longer prison sentence's and greater punishment for those who [commit a felony] and have been previously convicted of "serious and/or violent" felony offenses.

➤ Petitioner committed a "Misdemeanor", (V.C. § 23152(b)) and converted to a "Felony". (V.C. § 23550.5(b)). Cf. (subd. (a)). Cf. (subd. (i), "catch all clause".) V.C. § 23153 (Repealed).

§1192.7(b) "Defendant pled guilty, because he is, not for any other reason, not expecting a life sentence",
(c) used in this section "Serious felony" means (i)-(42).

Petitioner is outside the perimeter of both, "Three Strike Laws".

§667(b), Intent of Legislature enacting subd. (b)-(i), inclusive, to ensure longer prison sentence's and greater punishments for those who [commit a felony].. and have been previously convicted of "serious and/or violent", felony offenses.

Commit, 'to perpetrate a crime'. — Black's Law Dict. (9th ed. 2010).

Here this [P]etitioner [committed a misdemeanor] of V.C. § 23152(b). His prior conviction of P.C. § 191.5, is [E]levated by V.C. § 23556(b), to a [F]elony.

• The Three Strike Law of 3/12/94 (AB-971 (1994), Stats. 1994, ch. 12); Penal Code § 667(b)-(i).

NOTE: (667(f)(2), 'District Attorney' abused its discretion to strike a prior conviction in the interest of justice esp., "two decades", old, under Pen. C. § 1385).

§1170.12(a), "If a defendant has been "convicted of a felony", and defendant has one or more prior & felony convictions.

NOTE: (Not consistent with Preamble of Prop. 184, on 11/8/94).

► Penal Code § 191.5(a) "Petitioner 1987, prior,
'vehicular manslaughter', 'while in violation of Section,
23140, 23152, or 23153', of the Vehicle Code.
Not amounting to a Felony. (4, 6, or 10 years).
cf. (§ 193 (Punishment), (c)(1), (2, 4 or 6 yrs.))

► Penal Code § 245, "Petitioner's prior in 2006",

► Vehicle Code § 23152, "Petitioner's present charge 2008".

► Vehicle Code § 23550.5 (b), "[P]rior conviction of (P.C. § 191.5)
and then convicted of (V.C. § 23152), '1-year in prison',
(§ 23550.5), is for punishment.! (Not, three strikes law).

► § 23550.5 (a)(2) Petitioner current offense is (§ 23152),
his prior in 1987, had to be violation of (§ 23153),
thus outside of the, "10 year wash-out period."

see, * (Appellant's Opening Brief, No. C06 7741; Superior Ct. No. 72-005365,
at, p. 30 fn. 4). Every (P.C. § 191.5) violation is initiated
by a (V.C. § 23153), violation first. Miranda, 21 Cal. App.
4th 1464, 1467 (1994); Binkerd, 155 Cal. App. 4th 1143, 1147-50 (2007).

The State has used a "Double-dagger" in punishment.

* First, by elevating [M]isdemeanor charge of V.C. § 23152, into a [Felony]. * Second using that elevated Felony, as a Felony for "Three Strike Law[s]".

Here Petitioner's "accused" charge is a Misdemeanor the "alleged, third strike, [that he [C]ommitted and where the [C]ulpability lies". No where in either Three Strikes Law[s].. can a Third Strike be based upon the foundation of a misdemeanor violation. (Not a wobbler).

Under the two Statutory definitions of Three Strike Laws. (V.C. § 23152), is not within "Serious or Violent". Notwithstanding the "elevation or enhancement".

► In other words.. "Just because the state has disguised the misdemeanor and masqueraded it as a serious/violent felony, doesn't change the fact it's a committed misdemeanor."

• Bootstrap, (1940) Conflict of laws. "To succeed despite sparse resource's. 2. To reach an unsupported conclusion from questionable premise's."

— Black's Law Dictionary (9th Ed. 2010).

► Information, filed (2/9/2009) D.A. No. 42-005365,
Court No. 72-005365.

COUNT 1: "Driving under the influence, of alcohol or drugs,"
(Vehicle Code § 23152(a)), "the Crime." (misdemeanor)

* [WITH]

*(1987). "Prior conviction for Vehicular Manslaughter while
intoxicated, (V.C. § 23550.5(b)); (P.C. § 191.5), now (felony).

Punishment under 23550.5(b), "only requires one year in prison."
Punishment under, 191.5(a), "four, six or 10 years", (not a felony).

Here the State used the Prior, not the "crime
charged," to strike out petitioner. Prior is simply
to enhance a sentence.

Prior, (1919) Criminal Law, § 1000. "A previous conviction",
"because the defendant had two prior's, the judge auto-
matically enhanced his sentence", Black's Law Dict. (9th ed. 2010)

Under, Pen. C. § 667(b) "Intent of the Legislature", subd (b)-(i),
"... greater punishment for those who [C]ommit a felony..."

*(Petitioner committed a Misdemeanor)

Cf. Pen. C. § 1170.12, "[C]onvicted of a felony..."

The two state statutes conflict.

Cf. Proposition 184 (1994), the "Preamble". (Third strike
must be a violent felony", (Missing).

★ Abstract of Judgment, filed (7/12/11)

Count 2 : [V.C. § 2352(b) "with" V.C. § 23550.5(b).]

★ Enhancement : (Pen.C. § 1170.12(A)-(D), "Serious")

* 25 years to Life on Count 2.

★ Defendant was sentenced pursuant to, (Pen.C. § 667(b)-(i),
"Sentence is Unauthorized, under 667(b), because petitioner
(Committed a Misdemeanor) not intent of the Legislature.

★ Section 667, by the Legislature in (March-1994), was
for, "Violent Felonies". Here for the enhancement, it
was categorized under "Serious".

see, (667.5(c) "Violent" and 1192.7(c) "Serious")

For all the Statements of the Case, Petitioner
prays for relief, at this Honorable High Court see's
lit., as a matter of Due Process of the Laws. (14th Amend.)

DATED: July 12th, 2019

Sincerely submitted,

Douglas Doyle
Pro-Per.

REASONS FOR GRANTING THE PETITION

Conviction violates the Federal Constitution and U.S. Law's.

State, doubled-up, Felonies by conversion of misdemeanor. State could not provide any California Law, to back-up their reason's why such an unlawful practice was indeed, justified as a matter of law. Three Strikes Law is not a "catch-all" law, although it is assumed so. Neither does the state any Federal foundation for such a case.

This is indeed a [C]ruel case, because a misdemeanor D.U.I, arose to Felony, due to a 20 year old prior, which was the "bases" of the case and not the crime or violation itself, i.e., "I am not serving time for what I was committed and accused of.. a misdemeanor Vehicle violation.. and am serving time for the prior of Penal interest, and the elevation to a Felony. My culpability of vehicle violation (V.C. § 23152), "appears to be irrelevant."

An [U]nusual case, because California, has no other case like it. California has "swept under the rug" the Preamble to Proposition 184 (1994) (third strike must be Violent,) and, Proposition 57 (Cal. Const. art. 1, § 32 et seq.) Primary charge is fully served, despite enhancements, and is non-violent.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Douglas Doyle

Date: July 12th, 2019