

19-6077
No. _____

Supreme Court, U.S.
FILED

MAY 20 2019

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001.

Ruben Herrera. — PETITIONER
(Your Name)

VS.

Scott Kernan,
Secretary of Correction (CDCR). — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO
OFFICE OF THE CLERK
UNITED STATES COURT OF APPEALS FOR THE
NINTH CIRCUIT
POST OFFICE BOX 193939. SAN FRANCISCO, CALIFORNIA 94119-3939...
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

RUBEN HERRERA . # AU5012

(Your Name)

CHUCKAWALLA VALLE STATE PRISON

(Address)

P.O. BOX. 2349 BLYTHE CA 92226...

(City, State, Zip Code)

NONE

(Phone Number)

ORIGINAL

QUESTION(S) PRESENTED

First question is about the exclusion of all my reliable and relevant material evidence. on my behalf, as the relevant testimony of my First Eyewitness of the facts of my case, Ruben Machado SR, as my own testimony excluded out of the presence of the Jurors, which would be supported by the result of the Biological (Exculpatory) DNA Evidence (which is in my Plaintiff in Exhibit G.) Fed. R. crime P. 16) and also it was supported by the RECATATION of the SUPPOSED victim Rosa E. Machado (my wife) and also it was supported by the testimony from the Medical Forensic Scientific Analyst SAMUEL SUND HN 4425-323 415-8844, who stated "EXCEPT FOR THIS CASE, THERE'S NO DNA EVIDENCE CONNECTING THE DEFENDANT TO THE VICTIM IN THE CASE. THERE'S NO CONNECTION DNA-WISE BETWEEN A REFERENCES SAMPLE AND THE DEFENDANT ON TRIAL. (Ruben Herrera) For which is my question, why is my liberty judged by another man's and woman's CONSCIENCE, based on SPECULATIONS and MANIPULATIONS OF EVIDENCE to obtain my conviction, is it not a violation of an accused's right, under the compulsory process clause of the Constitution's sixth and Fourteenth Amendment, which would give to me the right to present evidences on my favor? . ?

Second question is about the conflict of interest that my Public Defender had. According to the Law, when the Attorney decided to represent me, based on the attorney's experience instead of going by the facts of this case, the attorney refused to inject what I had been asking her to do. I am the one who be considered to be at the scene of the crime there by, I had inside information about what could have been going on at that time of the facts. . . .

There are always three sides to a story the victims side, the defendant's side, and what really happened, it is the object of the court to find out what really happened at that time of the incident is and who was responsible for any criminal behavior if any. BY the Attorney using his experience about this type of case or court room experience, he did not have the defendants interest at best attorney only wanted to clear his calendar and move on to his or her case. . . .

The relevant material evidences in my Plaintiff shows to you and proves to you the ineffective assistance of the counsel (IAC) to sustain a claim of IAC a court must determine the counsel's performance fell below an objective standard of reasonableness under prevailing professional norms *People v. Iedesma* (1987) 43 C 3d 171 216 quoting *Strickland v. Washington* (1984) 466 U.S. 668 104 set 2052 and that a reasonable probability exist that but for counsel's unprofessional ERRORS, the result of the proceeding would have been different, *People v. Iedesma* (1987) *Strickland v. Washington* (1984) is my case in violation as well as my sentence. . . .

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:

Party (1) Rosa Esmeralda Machado, supposed victim on 17 multiple false charges of sexual assault and rapes, threats, and Domestic violence. Multiple false charges of sexual assault and rapes, which was proved with the Biological (Exculpatory) DNA Evidence which is in my Plaintiff in (Exhibit G.) Fed. R. crim. P. 16) that those never happened. Supported with the recantation of Rosa M.'s written testimony in (Exhibit B.) signed by Rosa Machado on 3-9-2014. To the Honorable Judge, result, and letter supported by the testimony of the Medical Forensic Scientific. SAMUEL SUN #A14425.323-415-8844. Analyst: expert Evidence (in Exhibit X) Fed. R. Evid. 702-705 1st. 1930, 1935, 1936, 1944, 1946, 1947, 1948, 1949).

Party (2) Valeria Irene Herrera, who saw the opportunity to appear as a supposed second victim on 14 multiple false charges of sexual abuses and rapes, aggregated at the only charge that I committed on November 21/22 of 2013. (§ 213.5 (A) PC. Cohab abuse / Simple assault Report DR 13-16 16920 ! to obtain a legal Immigration status under A-U-VISA and protect crimes committed by her.

Party (3) Erick Alejandro Navarro, who was the third person who committed 14 of the multiple charges and statutory rapes on Valeria Herre from 2008 through 2011, from which I am charged, sexually abuses and rapes, from which Valeria Herrera got pregnant when she was 16 years old, and her predator Erick A. Navarro was an adult, while Valeria I. Herrera was under the custody of the DCFS, and my relevant Material Fetched evidence about it, it is my granddaughter Hailey Rochelle Navarro, who is the product of those sexual abuses and rapes that Valeria Herrera received when she was a minor (child) 16 years old a violation of the section (S) 11166 [2]: 1117A.3: 11166.01 [2] failure to report. . . !

Party (4) Scott Kernan, Secretary of corrections (COCR), whom are keeping my conviction with the knowledge that my conviction is under violation of the Constitutional's Amendments of the U.S. and the violation of the compulsory process clause of the Federal constitution's Sixth and Fourteenth Amendment of it. . .

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APPENDIX A. *Decision of State Court of Appeal submitted on November 26, of 2014. And denied on August 4, 2015. See the Opinion written on August 4, 2015, by Vanessa Place Attorney at Law SBN # 116093, Post Office Box 18613 Los Angeles California 90018. Tel. (323) 730-9915. The only Page of Opinion or Explanation of the's negation of Appeal / Appeal NO. 8258324. (divi. 8).*

APPENDIX B. *Decision of the state Trial's courtroom (Page of RECOMMENDED SENTENCE Filed, on August 5, 2014. Signed by ELENA E. CAMARAS ABRAMSON, Deputy District Attorney.) Please detail six pages of the Trial's Opinion, written by the Public Defender Justine M. Esack. (Cell Phone (818) 636-2407, and work line (818) 878-2461 <JEsack@puddef.lacounty.gov>) who written this Opinion FOR ANY COURT OF APPEALS, on August 14, 2014. The only pages received from this Trial as Opinion. . .*

APPENDIX C. *Decision of the Supreme Court of California (Court of Appeals Law level.) Petition for review on direct appeal, Submitted on October 1, of 2015. (No 8258324) denied on October 5.*

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 F 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 E 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 D 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 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.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was Mar. 18, 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: N/A, 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 Mar. 15, 2017. A copy of that decision appears at Appendix D.

☐ A timely petition for rehearing was thereafter denied on the following date: N/A, 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

According to the Federal Laws, the SUPREME COURT OF THE UNITED STATES OFFICE OF THE CLERK WASHINGTON D.C. 20543-0002, has also recognized that the "cause prejudice" requirement has an actual "innocence" exception sometimes known by other name such as the "fundamental miscarriage of justice" exception in Murray v. Carrier (1986) 477 U.S. 478 91 LEd 2d 397 106 Sct 2639. The Supreme Court held that, in order to invoke the 28 U.S.C. § 1254(1)(2) this exception, a Federal habeas corpus petitioner is required to show that a constitutional violation has "probably" resulted in the conviction of one who is actually innocent, as in my case, ... happened, based on my issues!

Please Review, and detail, the Supplement of the Grounds (sub-claims) (1) one through (6) six, page 364 through 436. And EXPLAIN ALL THESE CONSTITUTIONAL VIOLATIONS COMMITTED BY Detectives, District Attorneys Office, Prosecutor, and courts, in charge of my case, to obtain my conviction, with 105 years of recommendation (+) plus life in prison! when the EXCULPATORY BIOLOGICAL DNA MATERIAL EVIDENCE, which is in my Plaintiff in (Exhibit G.) Fed. R. crim. P. 16 proved and proves my actual innocence. . . !

If, subsequently, however, in Sawyer v. Whitley (1992) 505 U.S. 333 110 LEd 2d 269 112 Sct 2514, The Supreme Court held that, for purposes of applying the exception to reach the merits of a challenge to a state death sentence, why it could not be applied in my case, to Grant my Petition for a writ of certiorari based on the constitutional violations committed in the due process of my case!

when the carrier standard, although requiring a substantial showing, is by no means equivalent to the standard governing review of insufficient evidence, something that in my case, Case NO. PAD78949, has sufficient to prove the claims! Jackson v. Virginia 443 U.S. 306 11 LEd 2d 560 99 Sct 2781. Distinguished in applying the carrier standard to Schlup's request for an evidentiary hearing, for the relevant evidence that District Court assessed the probative force of the newly presented evidence, in connection with the evidence of guilt, adduced at trial! According to the probable reliability of the evidence (which is in my Plaintiff) for example see 11 F. 3d 738. Vacated and remanded in 130 LEd 2d 805 513 U.S. 298 SCHLUP V. DELO 1513 U.S. 298 130 LEd 2d 808 115 Sct 851. Decision January 23 1995". According to this case on certiorari, the Supreme Court vacated the Court of Appeals' Decision and REMANDED THE CASE to the Court of Appeals with instructions to the District Court for further proceedings in opinion by Stevens J. Joined by O'Connor, Souter Ginsburg, and Breyer JJ. . . The petitioner's constitutional claims

then the petitioner must show that a constitutional or constitutional violations has probably resulted in the conviction of one, who was, and is actual innocence. . . ! Please Review the six Grounds and Explain those! when the Prosecutor ELENA ABRAMSON, would have had a constitutional, and ethical obligation to disclose the EXCULPATORY DNA EVIDENCE TO THE DEFENSE! but she did not. do it. see Brand v. Maryland 373 U.S. 83 (1963); MODEL RULES OF PROF'L CONDUCT R. 3.8 (d) (2007); MODEL CODE OF PROF'L RESPONSIBILITY EC 7-13 (13); ABA STANDARDS FOR CRIMINAL JUSTICE STANDARD 3-3.11 (b) (1993). . .

According to the result of the Biological Exculpatory DNA Evidence, which is in Exhibit G.) Fed. R. Crim. P. 16) If it would have disclose (as evidence) favorable to the defense (accused Ruben Herrera) it would be a reasonable probability that its disclosure, . . . it would have produced a different result, for which, the state had the knowledge of the use of false evidence in my Trial! 3 LED 2D 1217, 360 U.S. 264 NAPUE V. ILLINOIS. violating the due process clause of the Federal Fourteenth Amendment. see the classified to U.S. Supreme Court's Constitutional Laws § 840 - (see this in Appendix B.) The Page of RECOMMENDED SENTENCE (CONCLUSION) where the Prosecutor ELENA E. CAMARAS ABRAMSON, Deputy District Attorney, who signed it (on August 5, 2014).) A recommendation made based on about ARGUMENTS from which were obtain my conviction, which is in violation / A violation of the Burden of Proof from the Prosecutor. Conduct that is Contrary to the Justice, honesty, or morality. by using the Prosecutor false testimony, about the facts of the case, knowing to be Perjured, as denial of due process, 2 Led 2d 1575 and 3 Led 2 1991, to discredit the value of the result of the Biological DNA Evidence. by manipulating it. to deceive the Jurors. . . !

Please Review the Trial's Opinion in Opinion Evidence (1955) in (Appendix B) Page 1 Lines 1 to 15. Written on August 14 / 2014. FOR ANY COURT OF APPEALS. by my Trial's Counsel Justine M. Esack Fed. R. Evid. 701-705. where she explained to You, the manipulation made, about the result of the Biological DNA Evidence, by the Prosecutor, suppressing the truthful result of it, from my behalf, when the Supreme Court of the United States recognized that the suppression of evidence, by prosecution in Criminal case, as vitiating conviction under principles of due process of Law 33 ALR 2d 1421. . .

According to the Federal Laws on Appeals and ERRORS § 708 to the Supreme

— court Constitutional questions, it is the duty of the United States Supreme Court to make its own independent examination of the records, when Federal Constitutional deprivation are alleged the duty resting on the court's responsibility for maintaining the constitution inviolate, and the records on TRANSCRIPTS, as Relevant material Evidence (s) suppressed from my Trial, which contains testaments from which the following facts could have been found false testaments, According with the result of the Biological DNA Evidence in (Exhibit G.) Fed. R. Crim. P. 16 which proved my Actual innocence. . . !

For this reason, the state Attorneys had the knowledge of the use of false testimony evidences in my trial of July of [360 U.S. 270] 2014, which weren't a fair for both parties, so According to the false testimony used in the Trial's records, from my trials on July of 2014, about the result of my Biological DNA Evidence, which proved and proves that the Plaintiff of the Prosecutor ELENA ABRAMSON, presented in my trial of July of 2014, had not committed the crimes of which I was, and I am convicted [320 F. SUPP 2d 761] : Alexander v. City of San Ber. : May 18, 2004. According at the value of the Biological DNA Evidence recognized by the Supreme Court 557 U.S. 52 : DA's office v. Osborne : March 2 2009. (a) where the Supreme Court recognized that the DNA testing, it is ability both to exonerate the wrongly conviction and identify the guilty, because DNA'S power to prove innocence. . . .

According Washington v. Glucksberg 521 U.S. 702 719, 117 Sct 2258 117, Sct 2302, 138 LEd 2d 772, where is showing to you, that FORTY-SIX STATES and Federal Government have already enacted statutes dealing specifically, with access to evidence {129 Sct 2311} For DNA testing these Laws recognize the value of the DNA testing, as the Supreme Court of the United States have it in enacted and Statutes. . . !

This established that my conviction of [114 Years to life in prison, written on the RECOMMENDED SENTENCE (CONCLUSION) on August 5, 2014,] was obtained through use of false evidence [360 U.S. 269] known to be such by representatives of the state, must fall under the Fourteenth Amendment. Mooney v. Holohan 294 U.S. 103, 79 LEd

791, 55 Sct 340, 98 ALR 406; Pyle v. Kansas, 317 U.S. 213, 87 L ed 214, 63 Sct 177; Curran v. Delaware
(CA3 Del) 259 F.2d 707. see New York ex rel. Whitman v. Wilson, 348 U.S. 688, 87 L ed 1083, 63 Sct
840, and White v. Ragen, 321 U.S. 760, 89 L ed 1348, 65 Sct 978; compare Jones v. Kentucky (CA6 Ky)
97 F.2d 335, 338 with Re Sawyer's Petition (CA7 Wis) 229 F.2d 805, 809 c.f. Mesarosh v. United
States, 392 U.S. 1, 1 L ed 2d 1, 77 Sct 1, 9. The same result obtains when the state, although not soliciting
false evidence, allows it to go uncorrected when it appears. Alcora v. Texas, 355 U.S. 28, 2 L ed
2d 978 Sct 103; United States ex rel. Thompson v. Dye (CA3 Pa) 221 F.2d 763; United States ex rel;
Almeida v. Baldi (CA3 Pa) 195 F.2d 815, 33 ALR2d 1407; United States ex rel. Montgomery v. Ragen
(DC Ill) 86 F. Supp 382. see generally annotation, 2 L ed 2d 1575.

According to the cases of U.S. Supreme court, if it is in any way relevant to the case, the district attorney has the responsibility and duty to correct what he knows to be false and elicit the truth. . . That the district attorney's silence was not the result of guile or a desire to prejudice matters little for its impact was the same preventing us it did a trial that could in any real sense be termed fair. Something that in the first appeal never was corrected by the KAMELA D. HARRIS, Attorney General (at that time of my appeal, on November 26 through August 4, 2015,) in 800 South Spring Street, North Tower suite 5212 Los Angeles Ca. 90013. (See Appendix A) the only opinion received, based on my appeal, where they said, "THE COURT ALSO CORRECTED AN ERROR IN CALCULATING CUSTODY CREDITS." "IN THE SUPREME COURT, A CASE MUST EITHER PRESENT AN IMPORTANT QUESTION OF LAW HAVING WIDESPREAD APPLICABILITY OR BE IN CONFLICT WITH OTHER APPELLATE DECISION. YOUR CASE DOES NOT FIT EITHER CATEGORY. . . When this court of appeal at that time had the knowledge that the Appellant's convictions must be reversed for the improper and unduly prejudicial admission of Prior Domestic violence evidence to Prove disposition; evidence of prior criminal acts is ordinarily inadmissible to show a defendant's disposition to commit such acts (Evid. Code §1101.)

There is a statutory exception to this rule in sex offense case (Evid. Code §1108 Constitutional.) and domestic violence cases (Evid. Code §1109 Constitutional.) based on the difficulties of proof in both. Because the result of the Exculpatory Biological DNA evidence in (Exhibit G.) Fed. R. Crim. P. 16.) proved and proves the false theory of the case 846 F.3d 547; Restivo v. Hesseman; April 5, 2016. from both allegations because both require that the

Proffered evidence be admissible under section 352, other Act evidence section 352.1101
People v. Nicolas (2017) 8 Cal. App. 5th 1165 214 Cal Rptr. 3d 467 Trial Court committed instructional
ERROR when it effect lowered the stander of PROOF required for prosecution of the charged
crime of "(sexual charges)" Jury instruction requiring proof by a preponderance of the evidence
for an uncharged offense is a considerable lower Burden of PROOF than the due
Process requirement of proof beyond a reasonable doubt for a charge offense.

Ruben Herrera who is the inmate Pro se, present irrefutable material Relevant result,
in the Biological DNA (exculpatory) Evidence, in (Exhibit G.) Fed. crim. P. 16 which prove
that the Plaintiff of the prosecutor Elena Abramson had not committed any of the sexual
Assault on Rosa Machado, crimes of which I was convicted. This is the Burden of PROOF
in most civil (or) criminal case(s) trials, in which the jury is instructed to find for the party
that on the whole has the Stronger Relevant material Evidence as my result of the Biological
DNA Evidence, see People v. Falsett, supra 21 Cal 4th at P. 917; People v. Hoover (2000) 77
Cal. App. 4th 1028-1029, when my Biological Material (Result) of the DNA test evidence was
satisfying the Burden of PROOF under the due process of the Law. . . !

Because the supreme court concluded that the task of determining "how to harness
DNA'S power to Prove innocence. According to the case 2011 U.S. Dist Lexis 4045; Alvarez v.
McCollum; January 14, 2011, in criminal Law & procedure post conviction Proceeding General
Overview recognized, see also Herrera v. Collins 506 U.S. 390, where in affidavits supporting
Accused's claims, the supreme court reversed and remanded this case, based to the result of the
Biological DNA evidence test. . . ! For which my question is why my case is not reversed. . . !

In short unless one of the statutory exceptions applies - Section 1101, Subdivision Constitutional
(b) section 1109 - (Constitutional) - The Prohibition set forth in Section 1101, subdivision (a) is absolute. People
v. Villatoro (2012) 54 Cal 4th 1152, 1159 1161-1162, in exercising their discretion to admit other crimes
Evidence court are to hear in mind that the evidence "is so Prejudicial that its admission require
extremely careful analysis." People v. Ewoldt (1994) 7 Cal 4th 380 40 quoting, People v. Smallwood
(1986) 42 Cal. 3d 415, 428. Please analyse the result of the Biological DNA evidence from Ruben Herrera!

For which, the Prosecutor ELENA E. CAMARAS ABRAMSON, Deputy District Attorney, used the

second supposed victim, and false eyewitness (Valeria Irene Herrera) used to lie on the supposed facts of sexual assaults and rapes on Rosa Esmeralda Machado. to discredit the value of the result of the Biological DNA evidence, and RECENTATION of the supposed victim Rosa Machado, who confessed her conspiracy between Valeria I. Herrera and her, to give me more time in Jail, by used then the Mutual Combat (under section § 649.53 (4).) provoked by Valeria Irene Herrera, and Rosa Esmeralda Machado, to appear as a supposed victims of Domestic violence, and sexual abuses (assaults) and rapes, and then they will receiving a legal Immigration status under the statute 8 U.S.C. § 1101 (2) (15) (1) (4).

Please Review the testimonial evidence (1831) in (Exhibit X.) 923 where the suppressed victim Rosa Machado now recanted her testimony (763 F.3d 1242; Jones v. Taylor; May 12, 2014.) by stating, "I was exaggerating" (RT. 927, 928, 931, 933, 936, 939, 940, 941.) Rosa Machado denied that she was sexually assaulted or rape by her husband. the night of November 21/22 of 2013. (RT. 988 and RT. 989, and RT. 987 Lines 8 to 28 and 988, 989, Rosa Machado stated, "Yes I made that letter explaining to the Judge apologizing and that I have exaggerated the Report, because when I made the last Report (DR 13-1446-996) "I was very angry because my daughter Valeria Irene Herrera". . . Please Review also this confession in the context of the written (material) evidence in (Exhibit B.) Signature evidence. Fed. R. Evid. 404 (b) signed by Rosa Machado on 3-9-2014, to the Honorable Judge another Recantation written material Relevant which supports the result of the Biological DNA Evidence as my testimony, which was excluded out of the Presence of the Jurors violating the Cross-examine, 213 A. 2d 491 493, and the accused's right under the compulsory process clause of the Federal Constitution's Sixth and Fourteenth Amendments to present evidence in his favor (484 U.S. 406), 98 LED 213 798, 484 U.S. 400 TAYLOR V. ILLINOIS.) "and a person may not be deprived of Property or liberty without an opportunity to Cross-examine adverse witnesses" 380 U.S. 400 and also see 98 C.J.S. 130 Fed. R. Evid. 611. My testimony would be supported by the testimony of Rosa Esmeralda Machado, and also by the result of the Biological (Exculpatory) DNA Evidence, as by the testimony of the Medical Forensic scientific Samuel Sund, see expert evidence (66) Fed. R. Evid. 702-705 in testimonial evidence (1881) in (Exhibit X.) st. 1946 lines 10 to 28 and st. 1949, Lines 1

to 13) where the Analyst: SAMUEL SUND stated. . . ST 1947 No connection DNA-wise between a reference sample and the Defendant on trial other than IN THIS CASE". . . ? "There's NO DNA evidence CONNECTING THE DEFENDANT TO THE VICTIM IN THE CASE. . ."

Ruben Machado Junior, who was the First eyewitness of the facts of the night of November 21/22 of 2013! he, would supported, the reasons for which the result of the Biological DNA Evidence of my case, was negative on me! but Ruben Machado JR's testimony was excluded out of the Presence of the Jurors in my trial! (Violated the due process 14th Amend.) to not contradict the false testimonies of Valeria Irene Herrera, who was used by the prosecutor to lie as a supposed second victim and also as a false eyewitness of the facts of the night of November 21/22 2013! on the supposed sexual assault and Rapes on Rosa Machado! to devalue the truthful result of the Biological DNA evidence which proved my actual innocence. . . !

For which in Appellant's case Valeria I. Herrera was permitted to testify as a eyewitness over defense objection Pursuant to evidence code section 1109, which provides in Pertinent Part: (D) (1) Except as provided in subdivision (e) or (f) in criminal in which the defendant is accused of an offense involving domestic violence, evidence of the defendant's commission of other domestic violence is not made inadmissible by section 1101 if the evidence is not inadmissible Pursuant to section 352.

(3) "Domestic violence has the meaning set forth in section 13700 of the pen. c. Subject to a hearing conducted Pursuant to Section 352.

Appellant conviction must be reversed as the domestic violence charge involving Rosa M. were not contested by appellant: instead of being used to bolster the credibility of these allegations, as legislatively intended, the section 1109 evidence became instead a kind of section 1108 evidence insofar as evidence of appellant's prior non-sexual violence against Valeria Herrera was improperly used to bolster her credibility relative to her sex offense allegations. (Contra Evid. Code §§ 1109, 1108, 1101 (a) (b).) But as non-qualifying and irrelevant as the section 1109 evidence was, it was nonetheless extraordinarily prejudicial and its admission violated the statutory proscription against too-prejudicial evidence, and appellant's constitutional right to have a fair trial under the compulsory process clause Evid. Code § 352; People v.

Foster (2016) 50 Cal. 4th 1301, 1335; McKinney v. Rees (9th Cir 1993) 993 F.2d 1378, 1384; Downing v. United States (1990) 493 U.S. 342, 352, Petitioner's Ruben Herrera's Conviction was obtained as the result of unconstitutional duress. . . See U.S. v. Bailey 444 U.S. 394 (1980). Conviction based only on false arguments (see Appendix B.) presented by the people in my trial of July of 2014, to deceive the Jurors against of the truthful powerful result of the Biological DNA material (exculpatory) Evidence Fed. R. Evid. P. 16) which disproved the state's 'theory of the case' 846 F.3d 547; Restivo v. Hesseman's; April 5, 2016, for which the Petitioner's Ruben Herrera'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. see (Jackson v. Virginia 443 U.S. 307 (1979)). According to the Biological DNA material evidence, Petitioner's conviction was based on evidence known to be false see Miller v. Pate 386 U.S. 1 (1967). . .

Appellant did not contest the charges of spousal either at trial or in his extrajudicial admission. He admitted hitting Rosa M. and was not charged with physical abuse of Valeria. Thus, the very raison d'être for admission of other domestic violence evidence—to bolster the claims of someone alleging physical abuse—simply did not exist in this case (People v. Johnson (2000) 77 Cal. App. 4th 410, 419; People v. Poplar (1999) 70 Cal. App. 4th 1129, 1138). Nor was the evidence that appellant had thrown an ashtray at Valeria Herrera's head or stabbed her in the hand with car keys (see Please Relevant legal (material) Evidence (lrc) in Exhibit P.) Department of children and Family services / Detention Report 10/13/2010. the context of Page 4, 7, 8, 9, and 10, by cross-examine with the Relevant context of the written testimony (lrc) (material) in Exhibit M.) signature evidence Fed. R. Evid. 4(b) signed by Valeria Herrera on May 2016 to the John F. Kennedy high school L.). The contexts and results from those Relevant materials, and exculpatory evidences, were excluded, and manipulated, on front of the Jurors, to put out those from the accused Ruben Herrera's favor, in any Court of Appeals Federal or State, with the knowledge of the prosecutor and my counsel Justine M. Esack. That those proved, and proves, my Actual innocence, Elena Abramson, Prosecutor, and Justine M. Esack, my counsel both were participating in the Aiding and Abetting conspiracy to keep my conviction, with the mentality of a criminal, see the Example People v. Leon Banks et al. . . 61 Cal 4th 783 351 P3d 330, 189

cal. Rptr 3d 208; 2015. cal LEXIS 4650; CONSPIRACY, where my counsel, Justine M. Escobar was becoming to be a vigorous Second Prosecutor against the defendant Ruben Herrera, by suppressing all my relevant material evidences, as my own testimony to not be cross-examined, violating the accused right, and violating the Compulsory Process clause of the Federal Constitution's First, Sixth, Eighth and Fourteenth Amendment of U.S. by denying to present any relevant material evidence in the favor of the accused Ruben Herrera, not even my Relevant (material) character evidence (1949) which was already on statements in Exhibit H. Fed. R. Evid. 404, 405, 608. From before of my trial! see 98 LEd2d 794 484 U.S. 400 TAYLOR v. Illinois, and also see 93 LEd2d 924 U.S. 538 CALIFORNIA v. BROWN 2 and also see 1865 28 Cal. 395; PEOPLE v. Stewart; July, 1865; PEOPLE v. Josephs (7 Cal 129) and PEOPLE v. Lombard (17 Cal 316) "So far as they may seem to hold a contrary doctrine, are not Law, it is not for the court to determine whether the case is doubtful or not, and if doubtful or not, and if doubtful exclude evidence as to character." "The question, like all the questions arising upon the evidence, is for the Jury. It is the duty of the court to admit all evidence, which is relevant to the issue, and leave the Jury to determine its" based on it the Judgment was reversed, and new trial ordered. • See Appellant v. Jill Brown 399 F.3d 472 2005 U.S. APP LEXIS 3744. • •

Criminal Law §82, 83, 93; Evidence, §850 8th Amendment and the cases. TAYLOR v. Illinois; CALIFORNIA v. BROWN; PEOPLE v. Stewart. PEOPLE v. Lombard and the Criminal Law §82, 83, 93, Proves the constitutional violations, by denying the defendant Ruben Herrera the introduction of any relevant mitigating Evidence on his favor. • • with the knowledge of the court, that those would be supported, by the result of the Biological DNA test (Evidence) made on the Body, clothes, fingernails from both hands, shoes, and Penis. Analyzed by the Medical Forensic Scientific SAMUEL SUND #442-325-415. From the L.A.P.D. LAB. who testified. (5/19/97) There's NO DNA evidence connecting the Defendant to victim in the case, there's NO connection DNA-wise - between a reference sample and the Defendant on trial. • • Please Review my plaintiff this result in Exculpatory DNA Evidence in (Exhibit G) Fed. R. Crim. P. 16), results, which supports the recantation of the supposed victim Rosa Esmeralda Machado in trial, which was supported by the testimony of the Medical Forensic Scientific Analyst SAMUEL SUND, testimony which could be supported by the testimony of my eyewitness of the facts of my case Ruben Machado JR. if he did not was excluded out of the presence of the jurors, to no reveal the truthful facts of my case, my first Eyewitness, who was never placed on the stand. He will be available to testify, if the Supreme court of.

the United States Office of the Clerk, Washington DC. 20543-0001. Grant and reverse my case, see Alcala 334 F.3d at 872-73. See also United States v. Harden 846 F.2d 1229, 1231-32 (9th Cir 1988). A defense counsel's violation of a discovery Rule, see in Appendix C) The negation of the second review B258324.

one of the claim submitted in this Honorable Supreme Court, is that the San Fernando Superior Court of San Fernando CA 91340, improperly restricted defense evidence under state law can be "Federalized" by alleging the defendant "denied a meaningful opportunity to present a complete defense". in violation of the Due process guaranteed by the 14th Amendment to the constitution (see e.g. Holmes v. South Carolina 547 U.S. 319 (2006)). Similarly, a claim that hearsay evidence was improperly admitted pursuant to state law can be Federalized, by claiming that the states introduction of testimonial hearsay "i.e. hearsay as to a declaration that expects what he or she is saying to be used in court, from an unavailable witness who wasn't available for cross-examination violates the Confrontation clause of the Sixth Amendment (see Crawford v. Washington, 541 U.S. 36 (2004)).

The introduction of the BWS expert testimony would be both cumulative and unduly prejudicial. the trial court found that because appellant was not conceding the sex offenses against Rosa Machado, under Evidence Code § 720 (b) Qualification of an expert and admission of expert testimony is reviewed for abuse of discretion. According to the result of the Biological DNA evidence favorable to the accused Ruben Herrera which was manipulated by the prosecutor, with false testimony to devalue the truthful result of the Biological DNA evidence, and the recantation of Rosa Machado written in written testimony in (Exhibit B.) signature Evidence, Fed. R. Evid. 404 (b). Signed by Rosa Machado on 3-9-2014. to the Honorable Judge, one of the reasons for which was introduce an expert witness, who testified the comments and behaviors attributed to defendant, were consistent with a common behavior pattern of rapists.

In reversing, the court noted the inadmissibility of Profile evidence, described as "a listing of characteristics that in the opinion of Law enforcement officers are typical of a person engaged in a specific illegal activity." Id. at p. 1034, quoting United States v. McDonald (10th Cir 1991) 933 F.2d 1519, 1521, cert den. 502 U.S. 897 Profile evidence cannot prove guilt because it is improperly syllogistic, asserting: "Because there was no opinion on the issue of credibility from victims or witnesses used in the case against the Appellate Ruben Herrera, there was no

Material Relevant or Reliable evidences to prove the false (facts) allegations of Valeria Irene Herrera or any Relevant material Evidence to prove, any of the Charges of Sexual Assault on Rosa Machado only the hearsays of the supposed victims presented by the prosecutor supported by the speculations of the expert witness, a violation of the Burden of proof under the law. See 251 F.Supp. 474 476 2 and 397 U.S. 358 361.

For which in a similar context 1744: It is beyond dispute that CSAAS testimony is inadmissible to prove that a molestation actually occurred. It can be highly prejudicial if not properly handled by trial court. It is unusual evidence in that it is expert testimony designed to explain the state of mind of a (complaining) witness! see 54 LED 20 468, 436 U.S. 418 TAYLOR V. KENTUCK.

In appellant case, the prosecution was able to use Pincus' testimony for the precise purpose for which expert testimony is not allowed: to attest to the validity of the Government's case, or, more specifically, to negate Rosa's trial testimony that she was not sexually assaulted by appellant by vouching for her credibility in making the complaint and by painting appellant as a prototypical abuser, down to his Jailhouse calls and letter. This was improper, and impermissible in constitutional measure, for abrogation of "the Jury's core function of making credibility determination in criminal trials" "United States v. Scheffer, supra, 523 U.S. at p. 313" impermissibly abridges the Sixth Amendment right to a Jury trial. Appellant's conviction must be reversed for that vouching (see generally, People v. Humphrey, supra, 13 Cal. 4th at p. 1089.) because the prosecutor's only evidence was the false testimony of Valeria Herrera.

The presumption of innocence is that a defendant must be tried for what he did, not who he is. United States v. Myers (5th Cir. 1977) 550 F.2d 1036 (1044) Appellant was tried in not insignificant part for who he was, not what he was said to have done; his convictions must be reversed (Evid. Code §§ 1101, subd. (a) (6), 1109; U.S. Const. Sixth and Fourteenth Amendment.) Please detail the context of the Biological DNA result evidence, which NO EYEWITNESS TESTIMONY could replace that material evidence. - see 183 LE020 89.567 U.S. 50 Williams v. Illinois "consists with the Federal Rule Illinois Rule of Evidence 703. Provide as follows": DNA profile is evidence that tends to exculpate all but one of more than 7 billion people in the world today. the use of DNA evidence to exonerate person who have been wrongfully accused or convicted!

I declare under penalty of perjury that the foregoing is ~~true~~ and correct.

Executed on September 15, 2019 Signature Phil Han AU5012.

STATEMENT OF THE CASE

On July 22, 2014. In Los Angeles County Superior Court case number PA078944. Petitioner was convicted by Jury: An amended information charge: appellant with Spousal abuse (Counts 1, 2, and 3, Pen. Code §273.5(a); criminal threats (Count 4, Pen. Code §422(a); sexual Penetration by a foreign object (Count 5, 20, 21, and 22, Pen. Code §289(a)(1)(a); attempted sodomy (Count 6, Pen. Code §§664/286(c)(2)(a); rape (Count 13, 23, 24 and 25, Pen. Code §261(a)(2); sexual abuse of a minor (Count 18 and 19 Pen. Code §288(c)(1); Forcible sodomy (Count 26, 27, Pen. Code §286(c)(2); and Forcible Oral Copulation (Count 29, Pen. Code §288a(c)(2); Appellant Pled not Guilty Cet 2: 321-343 . . .

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REASONS FOR GRANTING THE PETITION

I am the Petitioner Ruben Herrera, Proceeding in Propria hereb'y approach this Honorable SUPREME COURT OF THE UNITED STATES OFFICE, WASHINGTON D.C. 20543--000 L.

I am a Petitioner pro se, who is actual innocence, Prisoner in C.V.S.P. / P.O. Box 2349, 1317th CA. 92226, who is filing this Petition after that I received on March 22nd of 2019, the negation from the UNITED STATES COURT OF APPEAL FOR THE NINTH CIRCUIT. Filed on March 18 / 2019, under the NO. 18-56045 ; D.C. NO. 2:17-cv-05874-CJC(JPR) Please Review this Page(s) in (Appendix F.) denied. "Because Appellant has not shown that "jurist of the reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right, and that jurists of reason would find it debatable whether the district was correct in its procedural ruling." Slack v. McDaniel 529 U.S. 473 484 (2000); see also 28 U.S.C §2253(c)(2); Gonzalez v. Thaler 565 U.S. 134 140-141 (2012) "ANY Pending motions are denied as moot. . ."

When the Ninth Circuit Court of Appeals had the knowledge of all the constitutional violations committed, by the prosecutor ELENA ABRAMSON, and my counsel Justine M. Esack, and the court of San Fernando CA. 91346, to obtain my conviction! Obtained based on the manipulation of Relevant and Reliable materials Exculpatory Evidence . . . which are in my Plaintiff to Prove, and Explain, the constitutional violations. Showed and specified in the Supplement of the (G) six, more important Grounds, which you received with my MOTION for a writ of Certiorari on July 24, 2019, invoked under 28 U.S.C. §1254. 1257. Those Grounds that you are keeping, explains to you with details, the violations on the accused's right, under the compulsory process clause, A violation of the Federal Constitution's First, fifth, sixth, Eighth, and Fourteenth Amendment of the U.S, as the violation of the constitutional discovery rule of the Courts into of U.S, by discriminating the accused Ruben Herrera to not give to him a Fair trial, just because I'm Mexican with different language, who did not understand (at that time) Any English, not even any Law, or local Rules of the courts, some easy to obtain my conviction, by manipulating my right, and my Medical Forensic Scientific result, obtained on the Biological test DNA evidence, which was suppressed and closed, by the prosecutor in the accused Ruben Herrera favor, (Please Review this result in the Exculpatory DNA Evidence in (Exhibit G.) Fed.R.Crim. P. 16) For which I am requesting to this Honorable Court, the Duty to disclose this material exculpatory evidence in the favor of the accused with Your Rules, and Federal Laws. . . !

According to U.S. v. Bagley (1985) 473 U.S. 667 676, 87 L.Ed 2d 481 490, 105 S.Ct 3375, Brady v. Maryland (1963) 373 U.S. 83, 87 10 L.Ed 2d 215 83 S.Ct 1194; see Pen C §1054(e) discovery required. U.S. Constitution must occur; Izazaga v. Superior Court (1991) 54 C3d 356 378 285 CR 231, Evidence is "Favorable" if it either helps the defendant or hurts the prosecution. In re Miranda (2008) 43 C4th 541 575 76 CR 3d 172; In re Sassounian (1995) 9 C4th 535 544, 37 CR 2d 446, People v. Uribe (2008) 162 CA 4th 1457 1471 76 CR 3d 829. The duty to disclose material exculpatory evidence does not end when the Trial is Over "[A]fter a conviction, the prosecutor also is bound by the ethics of his office to inform the appropriate authority of after-acquired or other information that casts doubt upon the correctness of the conviction". Imbler v. Pachtman (1976) 424 U.S. 409 427 n.25 47 L.Ed 128 141 n.25 96 S.Ct 984. see People v. Johnson (2006) 142 CA 4th 776, 782 48 CR3d 439 prosecutor improperly withheld police reports of gang-related incident involving chief prosecution witness that occurred between defendant's first and second trials "see the negation of the Supreme Court of Calif. S235637 in (Appendix D) with ALEX DANION!

When the Duty to disclose encompasses impeachment evidence. The U.S. Supreme Court has never draw a distinction for Brady purposes between impeachment evidence, i.e., evidence that reflects on the credibility of witness, and evidence that is directly exculpatory (as my result of the test took in the Biological DNA evidence which is in the Exculpatory DNA evidence in Exhibit G) Fed. R. Crim. P. 16) to be disclosed, by the Supreme Court of the United States Office of the Clerk Washington, DC 20543-0001. in the favor of the accused Ruben Herrera. (see U.S. v. Bagley (1985) 473 U.S. 667 676, 87 L.Ed 2d 481 490, 105 S.Ct 3375. "The prosecutor's duty to disclose material evidence that is favorable to the accused, includes the duty to disclose evidence that would impeach the testimony of material witness (as the testimony of my eye witness of the fact of my case, Ruben Machado JR. who never was placed on the stand to testify, character evidence, and the recantation of Rosa Machado written, in written testimony in Exhibit B.) signature evidence Fed. R. Evid. 404(C). signed by Rosa Machado on 3-9-2014 to the Honorable Judge. .") see U.S. v. Bagley, supra. see also Gislio v. U.S. (1972) 405 U.S. 150, 153, 31 L.Ed 2d 104 108, 92 S.Ct 723. reversal required because prosecutor failed to disclose this relevant material result, in the Biological DNA evidence favorable to the accused Ruben Herrera (A Brady violation) which proved, and proves His Actual innocence. see the negation of the United States District in (Appendix E) where they denied this right. ~ !

According to the reference that the prosecutor used to exclude and keep suppressed all material exculpatory, and Relevant material evidence, in the accused Ruben Herrera's favor! it was made in Hamdent's Trial (K.B 1684) 4 How St. Tr. 1053 1103 to a forgery case in which the court had excluded evidence of a defendant's prior forgeries "Similarly in Harrison's Trial, the Lord Chief Justice excluded evidence of a prior wrongful act of a defendant who was on trial for murder, saying to the Prosecution; Hold what are you doing now? Are you going to arraign his whole life? Away, away; that ought not to be; that is nothing to the matter, How St. Tr. 834 (old Bailey 1692), "McKinney v. Rees (9th Cir. 1993) 993 F. 2d 1378 1380") A discrimination for the accused Ruben Herrera, who did not kill noone! and who is convicted with the contrary of the Law! with a unfair and inefficient administration of Justice! and Truth! which was an outrageous government misconduct (U.S. v. Russell 411 U.S. 423 (1973)) to obtain the conviction on the Accused Ruben Herrera of 105 Years to life in state Prison and additional determinate term of nine Years (Please see this Document in Appendix B.) OF RECOMMENDED SENTENCE. Signed by the prosecutor ELENA E. OAMARA ABRAMSON Deputy District Attorney. Sentence obtained based on the Above (only) Arguments to SW/M!

The Defendant sought dismissal of the count charged under 18 U.S.C. §1001 arguing the §1001 did not extend to Judicial or legislative properly charged under 18 U.S.C. §1503 "The same allegedly false statements were not multiplicitous because the Perjury..."

Because for the Purpose of the prosecutor Elena Abramson, she had the Burden of Proof beyond a reasonable doubt 397 U.S. 358, 361, which she did uphold opposite to the Law, on the multiple (false) charge that the prosecutor Elena Abramson did not proved. in the case, (Sup. Ct. No. PA078948; 2d crim. B258324.) for which she had to exclude and suppress all Relevant Evidence in the accused Ruben Herrera's favor! and then, the prosecutor Elena Abramson, she will manipulating any exculpatory evidence in the defendant Ruben Herrera's favor! as the Relevant result of the Biological DNA test Evidence, Analyzed by Los Angeles Police Department (Medical Forensic) Scientific Laboratory SID-13-022879 / REP #0001: REPORT finalized on February 10, 2014. DR#13-16-16 996. Analyst: SAMUEL SUND #N4425-323-415-8844. Serology / DNA Division / Stop #400-

-1800). See this result in Exculpatory DNA Evidence in (Exhibit G.) Fed. R. Crim. P. (6) so DNA Evidence determined that the Plaintiff of the Prosecutor ELENA E. CAMARAS ABRANDEZ Deputy District Attorney, had not committed the crimes for which Ruben Herrera was convicted, see the example 320 F. Supp. 2d 761; Alexander v. City of S. Bend, 18, 2014, where the prosecuting attorney thus dismissed all the charges against Plaintiff stemming from the attack on this victim, based on the result of the Biological DNA Evidence analyzed, which showed not connection between Plaintiff. If You compare the relevant Evidence in this Plaintiff of Ruben H. Please Review expert evidence (16c) Fed. R. Evid. 702-705. in Testimonial Evidence (181) in (Exhibit X). St 1930, 1935, 1936, 1944, 1946, 1947, and 1948) where the Medical Forensic Scientific Analyst SAMUEL SUND stated (St. 1946 Lines 10 to 25 and St 1949 Lines 1 to 13. "There's NO result that test in the references sample the Defendant (Ruben Herrera) in the case (St 1947 Lines 1 to 13) There's NO Connection DNA-wise between a reference sample and the Defendant on trial other than in this case, (Case No. PA078948) NO DNA Evidence connecting the Defendant (Ruben Herrera) to the victim (Rosa Machado) in the case". - "we did not have any evidence (St. 1947) The following other sample, these are not sexual-Assault result. - "You have to explain: WHY this conviction of 105 Years to life! Because, the expert testimony proved, and proves, the use of false witnesses, and victims testimony, to inject false evidence in the records of the Constitutional mandate Discovery Rule of this case, (No Sup. Ct No. PA078948) D.C. No. 2:17-cv-05874 - CSC - (LPR) Ninth circuit No. 18-56045. From which the propose of Section 1109 (2) (3) Pen. code Section 13700, Subdivision (b) reads Domestic violence means abuse committed against and adult or a minor who is spouse, has to be modified by a single incident of Domestic violence (charge 273(A) PC. COHAB ABUSE / Simple DR No. 13-1616920 from the report filed by the officer Sandy Acevedo #38973, on November 22 2013, which could be a misdemeanor charge, by reversing Evidence code (5) §13700 (BWS; and CSAS) and §§1101, subd (2) (b) §1109 subd (a) (3); and §720 (2) - U.S. Const. Sixth and Fourteenth Amendments.

Because the only charge that the accused Ruben Herrera committed was the charge §273 (A) PC. COHAB ABUSE / Simple DR. No. 13-1616920 filed by the officer Sandy Acevedo #38973.

From the only incident of the night of November 21/22 of 2013, which would be a mutual combat under the section §649.53 (4) provoked by Valeria Irene Herrera and her mother Rosa Esmeralda Machado, by breaking a plate on the face of the Defendant Ruben Herrera, with the intention of initiate this Domestic violence, and then they appears as a supposed victims and eyewitnesses on the false facts of sexually Assaults and rapes, which never Occurred, with the ambition of Obtain U-VISAS of Immigration to can to stay in this country under the 8. U.S.C. §101 (a)(15)(A)(i) (The only way for a Mexican People?) something from which the court of San Fernando CA. 91340 had the Knowledge, and it could be proved (with) in the Trial's records. (Please Review the Grounds, where you can to find the issues of it with too many relevant evidence in transcripts recordings (numbers) in testimonial evidence in (Exhibit X) RT. 1894, 1895, 1896, 1897, 1898, 1899, 1900, 1901, 1902, 1904, 2143, VT. 2144, 2150, 2152, 2153, 2154, 2413, 2414.) and also, in Relevant material legal evidence in (Exhibit H.) proves it, INVESTIGATION REPORT NO. (6) inv. NO. : PAF-00057-14, you can to see, that the investigator, Augustine Lemos, found that the female detective, "MONICA", was offering Valeria Irene Herrera, her legal Immigration papers provided Valeria Irene Herrera (see preliminary evidence (18c) in (Exhibit W1) volume 2. RT. 15 lines 18 to 28 and RT. 16 lines 1 to 7. Fed. R. Evid. 104) by change those for: their false testmonys, something in exchange benefits for an Illegal Aliens, to not be deported from this country (after of commit a conspiracy on a mutual combat) and also, this Honorable court can see, that this investigator found, that the same female detective "Monica", also frightened and threatened the First EYEWITNESS of the facts of this case! (A violation of the 18 U.S.C.S. §2331 (a) defines violation of the criminal Law of the United States (i) (ii) (iii) (iv): 18 U.S.C. §1001.)) by telling him she did not want to see him in court. The detective "Monica" also told the EYEWITNESS Ruben Machado Junior, that he had not business going to court for for his father's case ". Superior Court of San Fernando CA. 91340 had the Knowledge that the First EYEWITNESS of the case Ruben Machado JR. was intimidated and threatened, by this officer, with the Knowledge that he was the person who was with his father, Ruben Herrera, the whole night of the incident of November 21/22 of 2013, when the defendant, Herrera, supposed sexual Assault and raped, Rosa Machado, in the living room, while Ruben Machado was with his father in this living room! The question that the court has to answer his self, is! Why his testimony was excluded and

Suppressed out of the presence of the jurors, under threats and intimidation! But the question for you is, what was the that the court and the District Attorneys Office of San Fernando Superior Court of CA. 91346 wanted to conceal from the Ruben Machado Junior's testimony! So this is something that the Honorable Supreme Court of the United States Office of the clerk Washington DC. 20543-2001. has to investigate, by putting this case (case NO. SUP. CT NO. PA-078948) back to the court, based on the violation of the Sixth and Fourteenth Amendments! which would give the accused Ruben Herrera's right, under the compulsory process clause of the Federal Constitution's Sixth and Fourteenth Amendment to present evidence in the defendant's Ruben Herrera's favor! (Please Review the Declaration of 153 Pages, filed to Appeal it)

According to the case of 98 LED2D 798 484 U.S. 400 TAYLOR V. ILLINOIS "HEADARTES" Discovery Sanctions 1A, 1B, 1C, 1d, 1e, 1F. "Although, and accused right - under the compulsory process clause of the Federal Constitution's Sixth Amendment - to present evidence in his or her favor may be ^{*}offended under certain circumstances, by the Trial's Court's imposition of a discovery sanction that entirely excludes the testimony of a material defense witness, the Sixth Amendment does not bar a court from ever ordering the preclusion of defense evidence as a sanction 'of for violating a discovery rule'. the mere invocation of the right to offer the testimony of the EYEWITNESS OF THE FACTS OF THE CASE. (SUP. CT. NO. PA078948:2d. crim. B298324) Ruben Machado Junior (November 21/22, 2013) in the accused Ruben Herrera's favor cannot automatically and invariably outweigh countervailing public interests, including (1) the integrity of the adversary process which depends not on the presentation of reliable evidence and the rejection of unreliable evidence (2) the interest in the fair and efficient administration of justice which was denied in the Trial; in the accused Ruben Herrera on July of 2014. (3) The potential prejudice to the truth (see the exculpatory material Biological DNA Evidence result of the test took on the accused Ruben Herrera.) - determining function of the Trial Process (opinion of Brennan, Marshall and Blackmun. JJ dissented in part from this holding.)

So the defendant Ruben Herrera's eyewitness of the fact of the case has to be placed on the stand - to give his testimony about the false allegation, from both supposed victims, or this will be considered a violation of constitutional discovery rule, as a violation on the accused Ruben

Herrera's right, which violates the compulsory process clause of the Federal Constitution's Sixth and Fourteenth Amendment, which protects the accused Ruben Herrera's right to present all relevant evidence in his favor, as his EXEWITNESS of the facts, and allegations of the case, Ruben Machado Junior, and his result in the Exculpatory Material Biological DNA test Evidence, which is in the Plaintiff in Exculpatory DNA Evidence (Exhibit G: Fed. R. crim. (P. 16)) in his favor, for which the DNA result, and the testimony of the defendant's EXEWITNESS Ruben Machado JR, excluded and suppressed, out of the favor of the accused Ruben Herrera, establishes an independent Probable Cause to grant this motion for leave to proceeding Forma Pauperis, for a writ: of certiorari invoked under 28 U.S.C. § 81254 (1) 1257 . . .

This Granting will be also, because the EXEWITNESS of the facts of the case, never was placed on the stand, to testify on front of the Jurors, to be cross-examined, a violation of the counsel of discoverers Rule, because the EXEWITNESS Ruben Machado Junior was with the defendant Ruben Herrera, the whole night, of November 21/22 of 2013, when the accused Ruben Herrera, would supposed committed (13) thirteen of the multiple false charges of sexually assault and rapes on his wife Rosa Esmeralda Machado (Counts 5 digital Penetration Rosa Machado § 289 (b) (1); 3 counts § 286 (c) (2) (A) PC. Sodomy -- Rosa Machado, 5 counts § 262 (a) (1) PC. Spousal Rape - Rosa Machado charges multiplied. (Violation of DOUBLE JEOPARDY) provision in the Fifth Amendment to the Constitution of the United States, which provide that "NO person . . . shall . . . be Subject for the same offense to be twice Put in Jeopardy of life or limb." see 18 wall. 163 168. it has now been held applicable to the states through the due process clause of the Fourteenth Amendment see 395 U.S. 784. The Clause operates only in criminal setting and prevent a second prosecution")

charges multiplied, from which, the result obtained by the Medical Forensic Scientific Analyst, SAMUEL SUNKU, #N4425.323-415-8844. On the Biological DNA test, took from Body, clothes, fingernails from both hands, shoes and Penis, of the defendant Ruben Herrera, to Analyze, and to find, any DNA from Rosa Esmeralda Machado on the clothes, Body, fingernails, or penis of the Accused Ruben Herrera. The result of the Biological DNA Evidence test, proved, and proves, that the (13) thirteen multiple false charge presented to the Jurors, never occurred on Rosa E. Machado, for which the prosecutor excluded, and suppressed all (and any) relevant evidence —

-Testimonies, material evidence, eyewitness, Character evidence, that contradicts the false eyewitnesses and supposed second victim, Valeria Irene Herrera's testimony, who was used as an eyewitness of the false facts of sexual assault and rapes on Rosa Esmeralda Machado, and to exclude the truth, of the only EYEWITNESS of the facts of the case, from November 21/22 of 2013. Ruben Machado Junior. And to devalue the recantation of Rosa Machado (see written testimony in Exhibit B. I written in signature evidence Fed. R. Evid. 404(B) signed by Rosa Machado on 3-9-2014. to the Honorable Judge. Please Review the context of it. . . Valeria Irene Herrera was a false eyewitness to devalue the truthful result of the test in the Bulbical DNA evidence, which could, and can be an exculpatory DNA evidence, that proved and Proves, that Valeria Irene Herrera, was not only a false eyewitness, but, a false second victim of Sexual Abuses and rapes, who saw her opportunity to appear as a second victim or eyewitness to obtain A-U-VISA, and also to cover the truthful criminal. The third person, who committed (14) Fourteen of the multiple charges from the case, on Valeria Irene Herrera, Sexually Abuses and rapes, from which, Valeria Irene Herrera got Pregnant, while Valeria I. Herrera was in custody of the State DCFS, when Valeria H. was a child, under 16 year old and the Sexual Predator Erick Alejandro Navarro was an adult, who was sexually abusing and raping Valeria H. from 2008 through 2011. Please Review Preliminary Evidence (etc) in Exhibit w1 volume 1. RT. 71. Lines 5 to 16 and Exhibit w1 volume 2. RT. 14 Lines 1 to 17 Fed. R. Evid. 104.) Sexually abuses and rapes committed under the custody of the DCFS on Valeria Irene Herrera, this is relevant, because, those were happening on the Dates used in my case, with the sexual Abuses and rapes, which were having consequences on Valeria Irene Herrera, who got pregnant, about those, and the relevant material evidence of this result was not tested evidence, who is My Granddaughter, Halie R. Navarro, is Evidence from charges and facts, from which he was charged, to cover the severe negligence of the DCFS, and the relevant tested evidence, excluded, and suppressed, from the presence of the Jurors to not reveal the truth of the case. From which violated 18 U.S.C 371.

The Honorable Supreme court of the United States office of the clerk of Washington DC. 20543-0001. has to know, the truthful reasons for which the prosecutor, District Attorney, and the courts involving in the defendant's case, were excluding, and suppressing, all relevant evidence in the accused Ruben Herrera's favor - and why they manipulated the truthful result of the

Biological DNA Evidence, and intimidates and threatens the eyewitness Ruben Machado Junior to not testify in the accused Ruben Herrera's favor, as they threatened Rosa Machado (KT-1844, 1895, 1901, 1902, 1903, 2143, 2144). Another material Relevant Evidence excluded and Suppressed out of the presence of the Jury was the Medical Forensic Report, CALEMA 2-950 with the Patient Number 301-506 234 - Ruben Herrera (H#131616996). Please Review, and detail this material Medical Evidence in (Exhibit G.), Medical Report of 15 pages. see Page 12. through 16, and see 10 Pages of Photograph(s) of the Body's injuries on the defendant Ruben Herrera, which he was receiving in the facts of the mutual combat provoked by Rosa Machado, who started this Domestic violence from the night of November 21/22 of 2013, by breaking on the defendant's face a Plate, which made bleed his face, and the Photographs shows it. So the Photographs were took, by filing this Medical Report, by Marilyn Stotts, nurse of the Northridge Hospital Medical center, on November 26, 2013. At 11:30 AM when they took all the defendant's clothes, shoes and DNA from all his body to analyze, and find any DNA from Rosa Esmeralda Machado on the defendant's clothes, Body or his fingernails, as his penis, evidence against him, which never was found, not even on the Body of Rosa Machado, or on her clothes or Private Parts. Only for one reason! Any sexual Assault or rape occurred on Rosa M. the night of November 21/22 of 2013! which proves the fake State's theory of the case, case NO. (Sup. Ct. NO. PA078948; 2d Crim. B258324.) Presented in the trial of July of 2014, to obtain this conviction in violation. According to the 846 F.3d 547; Restivo v. Hessemann; April 5, 2016, case where the DNA evidence disproved the State's theory of the (Restivo's) case, dropping (all) the charges against Restivo." Something that the Prosecutor in this Case, and San Fernando CA-Courthouse 91340 did not want to do, to not put charges on Rosa Machado and Valeria I. Herrera, by conspiring against the defendant Ruben Herrera (see the context of this conspiracy in written testimony (Exhibit B.) for which the court did not give back, the accused Ruben Herrera's Liberty, one of the first ~~issues~~ - Sub-claim, and Grounds, from the Trial, made by the Accused Ruben Herrera who is an actual innocent on 30 multiple false charges aggregated in his case (Sup. Ct. NO. PA078948) which was a mutual combat initiated by Rosa Machado in Conspiracy with Valeria Irene Herrera, and Erick Alejandro Navarro to obtain all the properties of the accused Ruben Herrera! also see 18 U.S.C.S 241. (a) 241.)

and also see 2016 U.S. Dist LEXIS 81124: United States v. Martinez-Mercado; June 17, 2016.

IF you go back to the Preliminary Evidence (LTC) in (Exhibit W1) volume 2. Fed. R. Evid. 104) RT. 4.5.6. and RT. 7. Lines 15 to 28; RT. 8 Lines 1 to 18; RT. 9 Lines 5 to 28.) Where Rosa Machado. stated that Erick Alejandro Navarro and Valeria Irene Herrera paying rent in our house also they were having problems at Erick's mom's house had previously been living together at Erick's mom's house? their children move in with our boys in October 2013. (and then after one month in home, they provoked this Domestic Violence on November 22, 2013, against Ruben Herrera to put him in Jail) "Since Ruben Herrera, (her father) has been in Jail Erick Alejandro Navarro and Valeria Irene Herrera have hired (on December) a lawyer to try to change (RT. 8 Lines 1 to 18) "the name on the house to Erick's name? Valeria H. got the lawyer to change the name on the house from her father's name to (her boyfriend) Erick's name? (RT. 9 Lines 5 to 28. and RT. 10.) Rosa Machado stated Valeria Herrera and Erick A. Navarro been attempted to sell all of Ruben Herrera's expensive equipment of his Body Shop's equipment, his tools since his been in Jail? (RT 8 Lines 13 to 15) Rosa Machado stated "that Valeria H. was the only one that was able to speak with the Attorneys," (other Relevant Material evidence manipulated in trial by the prosecutor.) Rosa M. was speaking about the Attorney Rober Brown at 1125 E. Broadway Glendale CA. 91205 / the 323 255-326. who helped them to commit this fraud. violating the Law Pen. C. § 522 Extorting Signature transfer of Property, Pen. C. § 523 written threat made to extort. see section 519. Pen. C. § 541 Sell give or other fraudulent transfer Punishment According to the Law Pen. C. § 21 (b) attempt is a crime. violating 8 U.S. C § 1101 (F)(6) false testimony to Obtain benefits; Relevant legal evidence (LTC) in (Exhibit H.) Investigation Report (No 5) Page (2) Lines 7 to 8) inv. NO. : IAAF-00057-14 will proving; that the investigator, Augustine Lemos on May 20 2014, found that Robert Brown at (323) 255 6261 was the Attorney who was helping Valeria Irene Herrera, and Erick A. Navarro to change the name of Erick Navarro or Hector Machado name on the title of the house of the Defendant Ruben Herrera, by attempting to commit a Federal Mortgage Fraud in the Superior courthouse of Pasadena CA. 91101, where they used false allegations, also about the defendant Ruben Herrera, to Obtain this Property on their name, at that same time, that they were lying in San Fernando Superior Court of San Fernando CA. 91340, violating the laws in this court also, by lying to deceive to the Judges to keep the accused Ruben Herrera in Jail and then they

could have all property of the accused Ruben Herrera, with the U-VISA also, easy money and benefits. by violating the laws in San Fernando CA. and in Pasadena Superior Court CA. because attempt to commit a crime consist of two elements. See Pen. C. § 26 (a) attempt is part of the fact when the person knowledge is an element of an offense (People v Reyes (1997) 52 CA 4th 975 983). This was one of the reasons for which Valeria Irene Herrera was inventing the false allegations of sexual abuse and rapes, to keep her father Ruben Herrera, in jail for life, and then she has all those benefits and money from her father. . . Something for which the court had the knowledge. . .

one of the reason for which, the court of San Fernando CA 91340, started to exclude, and suppress, all and any relevant material evidence, in the accused Ruben Herrera's favor, like this Medical Forensic Report (material evidence) CalENA 2-950, with the Patient ID number 301-506 234, Ruben Herrera #131616996. Report excluded out of the presence of the Juror to not show the truthful facts of this case, to can manipulate the result of the Biological DNA Evidence, which was negative for both parties of the case Rosa Machado (Supposed victim of sexual Assault) v. Ruben Herrera because the result of the Biological DNA Evidence was proving his actual innocence, from the charges of sexual assault and rapes used in the Trial of July of 2014, against the Patient ID number 301 506 234, Ruben Herrera #131616996. Medical Report, which proved, and proves, the mutual combat started, by Rosa Machado, and Valeria Irene Herrera, illegal aliens whom were looking to fix their legal Immigration Status under U-VISAS; 18 U.S.C. § 371. A conspiracy. I have reviewed and detail the Supplement of the Statement of the facts of my case of 363 Pages with the Sixth (6) important Sub-claims, issues, Grounds of the Appeal, where you can find more information of this mutual combat, provoked by Rosa Machado and Valeria Herrera, with Relevant material evidence, which were excluded and suppressed out of the presence of the Jurors! which proves part of the Constitutional violations, to cover the mutual combat, which could put Rosa Esmeralda Machado and Valeria Irene Herrera in Jail, and then, they would be deported of this Country. (R.T. 1895, 1896, 1897, 1898, 1900, 1901, VT. 2150, 2152, 2153, 2154, 2413, 2414,) violating 8 U.S.C. § 127(a) (3): For which the prosecutor and the Superior court of San Fernando CA-91340, were taking a moral turpitude by excluding and suppressing all material Relevant evidence in the accused Ruben Herrera's favor by manipulating the result of the Biological DNA Evidence, which would be

Relevant material (Powerful) Evidence in the accused Ruben Herrera's favor. Please Review the newly pro se discovered, Opinion Evidence (1855) in (Exhibit A) Federal R. Evid 701-705 Opinion of the Trial of July of 2014, written by Justine M. Esack. (See this Opinion in Appendix B.) where she declared in Page 1, Lines 1 through 15, how the prosecutor Elena Abramson manipulate the result of the Biological DNA evidence test, by stating, "DNA - again a manipulation by the prosecutor to explain away the lack of DNA evidence, NO semen, no male DNA at all. Did she shower? Yes, we don't know well she cleaned, or if she cleaned her rectal cavity, we do know that male semen and sperm cells contain a large sample of DNA unlike touch evidence from skin to skin contact, but again the takeaway here is that there is no circumstantial evidence that supports the prosecutor's conclusion that Rosa was sexually assaulted. She wants you to believe that 1) a sexual assault occurred, and either 2) there was DNA transfer but it was too miniscule to find or 3) there was DNA transfer but the sample was taken so late and after so much washing that it was gone. But she didn't prove any of that, and again, the prosecutor has the BOP. But we know that from Mr. Sund that it is possible to find DNA, even days later both from semen/sperm and touch DNA is a person is a she older, so if you go back to the circumstantial evidence instruction, if there are 2 reasonable explanation 1) that there's no DNA and sexual assault occurred, and 2) that there's no DNA, and no sexual assault occurred, you must elect the one that points to innocence...!" "the first issue!"

This Trial's Opinion was written on 8/14/2014, for any Court of Appeals, by the Public Defender Justine M. Esack, who is the first eyewitness and hear witness, about the manipulation of the Relevant and Powerful Biological DNA evidence, which proved and proves the Actual innocence of the accused Ruben Herrera AUS012, on front of the Judge! when the Judge DAVID W. STUART (Presiding Department NVF.) had the duty to be impartial and to make sure that the defendant in a criminal case is given a fair Trial on the fact and not a trial!" and also the Judge David W. Stuart had the obligation to see that the Trial was fair to both the defendant and the prosecutor. People v. Blackburn, Supra, People v. Ferguson (1981) 126 CA 3d SUPP. 22, 30 n4: so the Judge David W. Stuart had the knowledge that the Defendant's Ruben Herrera's witnesses and Defendant's testimony was —

Fundamental in a Fair trial see Appellant v. Jill Brown 399 F. 3d 972 2005 U.S. APP LEXIS 3744. which was denied for the accused Ruben Herrera in his Trial on July of 2014. A violation the Compulsory Process clause of the Federal Constitution's First, Sixth, Eighth and Fourteenth Amendments of U.S. committed by the court, to obtain the conviction of the accused Ruben H. with a conviction, which is under violation of the Federal Laws, on someone who is actual innocence, in all those 27 multiple false charges of sexual assault, abuses, and rapes, which was aggravated in the mutual combat provoked by Rosa Machado and Valeria Herrera, on November 21/22 2013. .!

If the SUPREME COURT OF THE UNITED STATES OFFICE OF THE CLERK WASHINGTON, DC 20543. 001 see the testimony of the Medical Forensic Scientific Analyst and cross-examine the recantation of the victim Rosa Machado, those were one of the reasons for which the court excluded and suppressed any (all) relevant, and reliable, material evidence, in the accused 'Ruben Herrera's favor, because those would be supported by the Reliable, and Relevant, testimony of the Medical Forensic Scientific Analyst SAMUEL SUND #N4425-323-415 8844. who testified in trial of July of 2014, on front of the jurors, proving the Actual innocence of the Appellate Ruben Herrera, by Declaring in Pro se newly Discovered Reliable and Relevant Expert Evidence (16c) Fed. R. Evid. 702-705: Testimonial Evidence (1887) in (Exhibit X) ST. 1946 Lines 10 to 28. and ST. 1949 Lines 1 to 13.

Analyst SAMUEL SUND stated when Justine M. Esack Asked: "when You asked about touch DNA by the prosecutor is it Generally in the court of explaining result that do not Detect DNA of the Defendant? (Ruben Herrera.)? Sund stated. Actually NO. . . Esack: well You do have cases where you don't find DNA of the Defendant as part of your Analysis that right. . . Sund stated: Yes. . . Esack: And when you're called on an one of those cases where there's NO result that ties in the reference sample to the Defendant in the case isn't it common for the prosecutor to ask you to essentially explain why that would (ST. 1947 Lines 1 to 13) Be. . .? Sund stated: It really depends on the case. . . Esack: Have You ever been asked to explain why it is that there's NO connection DNA-wise between a reference sample and the Defendant on trial other than IN THIS CASE. . .? Sund stated: To my Knowledge. I can't remember of a case where I've had that NO. . . Esack: You've never had a case where there's -- where there's NO DNA evidence connecting the Defendant to the victim in the case. . .? Sund stated:!

well NO. . . ESACK: EXCEPT FOR THIS CASE. . . ? Sund stated: EXCEPT FOR THIS ONE, YES TOMY KNOWLEDGE!

Please Review and detail Transcripts (ST. 1930, 1935, 1936, 1944, 1946, 1947, 1948.) where the Medical Forensic Scientific Analyst (who matched the Biological DNA Evidence, proved that the examples collected from the Body of Rosa Machado and the Body of the inmate Ruben Herrera! from both parties are negatives there's NO Connection samples of Biological DNA evidence from Rosa Machado and the defendant Ruben H. So NO Sexual Assault occurred on Rosa Machado! see the example in 320 F SUPP. 2d 761; Alexander v. City of S. Bermd: May 18, 2004. NO DNA was finding on or in the Body of Rosa Machado, from the accused Ruben Herrera! and also the medical Forensic Scientific Analyst did not find any DNA from Rosa Machado, on the Body, fingernails, clothes, shoes, which were used to find any DNA from Rosa Machado, on those which could not be cleaned out to remove the DNA from Rosa Machado, if those sexual assaults, and rapes, would actually happened the night of November 21/22 of 2013! because at the same time, after the incident, the defendant Ruben H. was walking, to surrender to the authorities, with the same clothes, shoes, and with not shower on his Body, to clean the DNA of Rosa Machado, from his clothes, shoes, or Body, because those were used to find any DNA from Rosa Machado on the defendant Ruben Herrera! which was easy for this Medical Forensic Scientific Analyst (Sund) to find any DNA from Rosa Machado, on the Body, fingernails, clothes, or shoes or penis! because Rosa Esmeralda Machado, was throw out too many menstrual blood, because Rosa Machado was on her period! and the Medical Report (suppressed and excluded out of the presence of the Jurors.) CalEM 2-923. from Northridge Hospital Medical Center C.A.T.S. proved and proves this menstrual blood of Rosa M. (see this Material Relevant Medical evidence in (Exhibit G.) page of Patient ID Number 301-50622 name of Patient Rosa Machado, Date filed November 25, 2013; page 3 of J. Genital examination. Female. Diagram H. "Found menstrual Blood Noted!" the Medical Report CalEM 2-923. supports the Rosa's testimony (one of the complains from the defendant Ruben H) about the reason for which, she was using her PAD ON! on November 21/22 of 2013, the night of the supposed sexual assaults and rapes on Rosa Machado, (RT. 1685 lines 3 to 23) ESACK Asked Rosa M: "Let me ask you about November 21st. You said that you had your period that day. . . " Rosa Machado stated: Yes. . . ESACK: when Ruben was beating you that night did he have his clothes ON or off. . . Rosa Machado stated: "He STILL HAD CLOTHES ON. HE WAS WEARING SOME SWEAT PANTS". . .!

The question for the SUPREME COURT OF THE UNITED STATE OFFICE OF THE CLERK WASHINGTON DC.

20543-0001. is, if those sexually assaults and rapes would on reality happened on November 21/22 2013, when Rosa M. was throwing to many menstrual blood. WHY! the medical Forensic Scientific Analyst Samuel Sund did not find any Biological DNA Evidence from Rosa Machado on the Body, Private Parts, Penis, Fingermarks, clothes or shoes of the defendant Ruben Herrera. NO even they find any Biological DNA Evidence from the accused Ruben Herrera on the Rosa Machado's Body, Private Parts (in or out) or on her clothes. . . ! Because the medical Forensic Scientific Analyst SAMUEL SUND stated:

"There was NO result obtain for those samples". "The following other samples, these ARE NOT SEXUAL-ASSAULT RESULT, WE DID NOT HAVE ANY EVIDENCE (ST 1947) Sund stated: "EXCEPT FOR THIS CASE THERE'S NO DNA EVIDENCE CONNECTING THE DEFENDANT TO THE VICTIM IN THE CASE THERE'S NO CONNECTION DNA-WISE BETWEEN OR REFERENCE SAMPLE AND THE DEFENDANT AT TRIAL! NO MALE DNA DETECTED ROSA M'S VAGINAL SWAB! NO MALE DNA DETECTED ROSA M'S ANAL SWAB! NO MALE DNA DETECTED ROSA M'S EXTERNAL GENITAL SWAB IN A CONCLUSIVE MANNER NO DNA in ANY OF THE ROSA M'S SWABS" [The question is, Why the Accused Ruben Herrera's liberty is Judged by other third person's conscience?]

Please Review and detail the supplement, of the more important (G) six sub-claims and Grounds of this petition. (see second Ground Page 373. through 384.) Ground (A) about the Biological DNA evidence, which is in the plaintiff of the Defendant Ruben Herrera, in Exculpatory DNA evidence in (Exhibit G.) Fed. R. crim. P. 16) and which disproves the state's theory of this case, According to the Sample in 846 F.3d 547: "Restivo v. Hessemann": April 5, 2016 where the result of the Biological DNA Evidence disproved the state's theory of the case and the state dropped the Charges against Restivo, so the question why the Charges of the defendant Ruben Herrera they did not want to drop. . . !

Accordingly, to the result of the test took on the accused Ruben Herrera in this Biological DNA Evidence, which is in this plaintiff of the accused to Appeal his conviction! from which the claimant, Ruben Herrera is entitled to offer evidence, to support the claims, Scheuer v. Rhodes 416 U.S. 232 236, 94 S.Ct 1683 40 L.Ed 2d 40 (1974) overruled on other Ground Davis v. Schere 468 U.S 183 104 S.Ct 3612 82 L.Ed 2d 139 (1984): For which the SUPREME COURT OF THE UNITED STATES OFFICE OF THE CLERK OF WASHINGTON, DC 20543-0008. can to conclude that the task of determining "how to harness DNA'S POWER to prove the accused Ruben Herrera's innocence. see 2011 U.S. Dist LEXIS 4045": Alvarez v. McCollum: January 14, 2011 where in criminal Law & Procedure > Post conviction Proceedings General

Overview recognized that," and reversed and remanded the case. see also 592 F.2d at 1255 Actual innocence claim - also based on Herrera (see Doe 42 at 13) Herrera v. Collins 506 US 390 203 LE120 122. . . For example see United States v. Katson (2014 AFCCA) 73 MJ 630, 2014 CCA LEXIS 243 reversed and Remanded (2015 US CAF) 2015 CAF LEXIS 588. Based on the result of the Biological DNA evidence (result) which proves that under the Law: Rules of Federal Government's statutes dignity and fair efficient administration of Justice, if there's NO DNA, NO sexual assault occurred. So You must elect one that points to innocence. . . only for one reason, because the Defendant Ruben Herrera never committed any of the 27 multiple fake charges of sexual Abuses and rapes! For which he was charged! to deny that the Domestic Violence, was a mutual combat! Provoked by Rosa Machado, and Valeria Herrera, Domestic violence from the report DR 13-1616920 Filed by the Officer Sandy Acevedo #38973 on November 22 2013! who confirmed on her testimony in trial. That Rosa Esmeralda Machado, wasn't sexual assaulted, at that time, that she filed this report! When she spoke with Rosa Machado, about the only charge that the defendant committed P.C. 273(a) COHAB / ABUSE / simple - a misdemeanor charge under the California Penal Book of the Law. For be the first time in his record, which has the further meanings as set forth in section 6211 of the Family code, if the act occurred not more than five Year which would be his conviction not 105 Year + Life in Prison!

According to the recantation of the supposed victim, Rosa Esmeralda Machado, which will supported by the result of the Biological DNA Evidence test. 763 F. 3d 1242; Jones v. Taylor; May 12, 2014. The Petitioner Ruben Herrera is seeking the relief in this Honorable Court, based on a freestanding claim of Actual Innocence the the Honorable Supreme Court of the United States has to assume that a freestanding actual innocence claim existed in this context and granted relief it, where Your Jurisdiction is invoked under 28 U.S.C. § 1254 (1) and 28 U.S.C. § 1257. see the reason for which You have to reverse and remand this case. (Sup. Ct. No. PA078948)

see the confession, and Recantation of Rosa Machado, supported by the Biological DNA Evidence test, in testimonial evidence (187) in (Exhibit X) where Rosa Machado stated on front of the Jurors on July of 2014! RT. 923 "That on November 21/22 2013 "I had my period". The Prosecutor Elena Abramson Asked to Rosa M. "When You were talking to the sexual assault Nurse, You referred part of Your body as, the front and back, do You remember that. ~? Rosa Machado

o stated. "Yes". . . Abramson: when you were talking to her about your front, were you talking about your vaginal? . . . Rosa Machado stated: "When I said that was EXAGGERATE, I did tell her that he had touched me. . . ! " Abramson: (RT 927) After the defendant got your pants off did he put his penis in your anus. . . ? Rosa Machado stated: "NO!" inside. . . . Abramson: did he put his fingers or a finger in your anus after he got your pants off between November 21st and November 22nd of last year (2013). . . . Rosa Machado stated: "NO". . . ! Abramson: Did he put his penis in your vagina that night after he got your pants off. . . . Rosa Machado stated: "NO!". . . Abramson: isn't true when you spoke to the nurse you told her isn't true you told her "one he removed my pants he penetrated me from behind, he did it with his fingers and from the front as well he was doing that for a while, isn't that what you told her just yes or no it will make it go much more quickly. . . . Rosa Machado stated: "NO!". . . Abramson: You didn't say that to her. . . ? Rosa Machado (RT. 928) stated: "NO!". . . Abramson: Did she ask you that. . . ? Rosa Machado stated: "NO!"

(RT 929) Abramson: At same point during your interview with the nurse did she ask you if poop come out of your anus. . . ? Rosa Machado stated: "NO!" it didn't come out. . . ! Abramson: "She didn't ask you that. . . ? Rosa Machado stated: "NO!". . . Abramson: Okay so isn't true you told her (nurse) through during your interview that evening because he penetrated from behind, poop come out? Just yes or no did you say that to her. . . ? Rosa Machado stated: "NO!". . . (RT 931) Abramson: did the defendant try and put his mouth on your vagina? . . . Rosa Machado stated: "NO!". . . (RT. 933) Abramson: You then told her when he was penetrating me from the front, he was penetrating me and at the same time with the finger he wanted to do it in the rear end Yes or no. . . ? Rosa Machado stated: "NO!". . . Abramson: You didn't tell her that did the defendant use any type of lubricant that night. . . ? Rosa Machado stated: "NO!". . . Abramson: Do you know if the ejaculated any where on your body in your body. . . ? Rosa Machado stated: "NO!". . .

(RT. 936) Abramson: Did he put his penis in your vagina in the bedroom. . . ? Rosa Machado stated: "NO!". . . Abramson: Did he put his fingers in your penis [sic] or your vagina in the bedroom? . . . Rosa Machado stated: "NO!". . . Abramson: Did he beat you, so he could take your clothes off in the bedroom. . . ? Rosa Machado stated: "NO!". . . (RT. 939) Abramson: Did he tell you that he wanted to take the stick of the plunger and put it in your anus. . . ? Rosa Machado stated: "NO!". . .

(RT. 946) Abramson: Did he ever hit you with any object beside his hands. ? Rosa Machado stated. "NO!". (NO WEAPON USED IN THIS CASE, AS THE CANE USED BY THE PROSECUTOR ELENA A. TO MAKE APPEAR MORE DANGEROUS THE ACCUSE RUBEN HERRERA, WITH THE USE OF A FALSE EVIDENCE. A. NAPUE AND MILLER violation. see NAPUE v. Illinois 360 U.S. 264 (1959) Miller v. Pate 386 U.S. 1 (1967)) !
Abramson: Since the beginning of 2013 had the Defendant ever Threatened you with weapons. ? Rosa Machado stated. "NO!". (False charge. Not committed 1 count: 422 PC. Criminal threats-Rosa Machado, agreed to make more strong the false charges of sexual Assault and rapes). (RT. 941)
Abramson: isn't true you told nurse that the defendant said to you "and that when I went to Mexico after they deported me was going to kill me over there he was going to kill my Father and my Brother." didn't you tell her that. ? Rosa Machado stated. "NO!". (RT. 7685) Esack: let me Ask you about November 21st you said that you had your period that day (line 13) so on the 21st did you have a pad ON that Thursday night? Rosa Machado stated. "YES". Esack: when Ruben was beating you that night did He have his clothes ON or OFF. ? Rosa Machado stated: "He still had clothes ON, he was wearing some sweat pants". Esack: when you made the Report to the officer was in the following morning November 22nd that you went into the Police station. ? Rosa Machado stated: Yes Friday. Esack: you spoke to a female officer. (Sandy Acello #38973) that day. ? Rosa Machado state: (RT 1684) "Yes"

(Line 16) Ruben come before the Pictures were take he said that he was Ruben HERRERA and they arrested. (The defendant Ruben Herrera surrendered to the authorities at that same time that Rosa Machado filed this Report (OR 13-1616920: Nov. 22 2013, charge PC 273 (A) COHAB ABUSE/Simple, charge of Domestic violence, which could be a mutual combat According to the facts of it, and According to the section § 649.53 (A) started by Rosa Machado and Valeria Herrera, helped by Erick Alejandro Navarro, who was use as a false eyewitness, to discredit the truthful result of the Biological DNA Evidence test, on both Parties, "Rosa M. and Ruben H." when this false eyewitness never saw anything the night of November 21/22 2013, because He was drunk and Sleep the whole night of Nov. 21/22 of 2013 (A napue and miller violation) Proved with their own testimonys. this issue of Law and the issue of Facts, see § 8312 "Subornation of Perjury. § 128."

Please Review and Detail the context of relevant testimonys in testimonial evidence in/

Exhibit X.) ET. 2516 Lines 13 to 28 and ET. 2517.) Abramson asked the false eyewitness Erick Alejandro "Okay before we left for a break. You said that Valeria (H.) started crying. . . ? Erick Navarro stated, "Yes. . . Abramson: So what's the next thing that happened. . . ? Erick Navarro stated. WE BOTH GET UP GO TO GO OUTSIDE. . . Abramson: Where did you go. . . ? Erick Navarro stated: Outside the bedroom into the hallway. From the hallway you can see the whole entire living room. . . Abramson: So what did you see? Could you see into the living room from where you were. . . ? Erick Navarro stated. "Yes. . . Abramson: And what did you see when you looked into the living room? . . . ? Erick Navarro stated. "Ruben was pulling his pants and Rosa M. was laying on the floor completely naked covering herself. (ET 2517 Lines 2 to 28). . . Abramson: And where was Valeria at that time that you looked into the living room and could see this. . . ? Erick Navarro stated. "NEXT TO ME. . . (A naive and Miller violation.) 2L ed. 2d 1575 and 3L ed 2d 191.

Erick Alejandro Navarro was used by the prosecutor ELENIE CAMARAS ABRAMSON DEPUTY DISTRICT ATTORNEY to inject the CANE like a weapon by declaring Erick Navarro: "He Ponche her the face, she slapped her. He hit her with -- with a walking cane. (ET 2518 Lines 1 to 13). "Yeah with the cane he hit her in the Ribs and Stomach, on the back, USING it like a Baseball bat. . . (A naive and Miller violation) Because the Medical Report CALEMA 2-923 in Exhibit G.) which was excluded and suppressed out of the presence of the Jurors, it would prove those false testimonies about the facts with this CANE used like a baseball bat, see this Medical Report took on November 25, 2013, in the Patient ID Number 301-50-6226, by Northridge Hospital Medical Center (Examiner: Misty Molina (urse) MSN-CNM, SHANE RN) C.A.T.S. name of Patient Rosa Machado (born 7-6-73) page 71 K. General physical examination, which proves that NO INJURYS OR BRUISES, Marked, Produced by this cane, this is part of the evidence that proves the falseness of the eyewitness, Erick Alejandro Navarro, used to inject false evidence (33 ALR2d 1421.) and also see constitutional law § 840-due process-false evidence).

see and cross-examine the testimony of Erick Navarro, with the more relevant testimony of Valeria Irene Herrera, who wasn't his wife, (VT. 2879, Lines 1 to 21) Abramson Asked Valeria Herrera, "What was she wearing on top, if anything. . . Valeria Herrera stated "She had a Jacket and Shirts. . . Abramson: Did your husband Erick Come out. . . ? Valeria Herrera stated: "NO. . . Abramson: Do you

know why Erick did not come out. . . ? Valeria Herrera stated "YES. I had told him not to go outside to just leave it to me to handle it because I didn't want him to get into problems with my dad. as well. [Proved the violation of the 14th Amendment - Navarre and Miller violation. Appeal and Error §806 - from - state court - effect of false testimony.]. . .

The testimony of Valeria Irene Herrera, would be supported by the Rosa M.'s testimony, who confirmed the falseness of the supposed eyewitness Erick Navarro, presented by the prosecutor Elena Abramsky, to inject false information into the trial of July of 2014, about Ruben Herrera, who didn't know to much this false eyewitness. Erick Alejandro Navarro, who was the sexual predator of this case. . . - see (RT. 1679 Lines 11 to 19.) Esack Asked, Rosa Machado: "And during the period of time" (November 21/22 2013) "that Ruben Senior was being violent with you and hitting you where was ERICK . . . ? Rosa Machado stated. "In his Room. . . " Esack: Is that room that he shares with Valeria . . . ? Rosa Machado stated. "YES. . . " Esack: Did he come out. . . ? Rosa Machado stated. "NO. . . " [This testimony confirms the falseness of the supposed eyewitness Erick Alejandro Navarro.]!

The own testimony of Erick Navarro, confirm that he was lying to the Jurors, as a false eyewitness of the facts of the night of November 21/22 2013, To devalue the truthful result of the Biological DNA Evidence test, and to devalue the recantation of Rosa Machado (ET. 2533 lines 4 to 13.) Esack Asked Erick Navarro: "Did Valeria tell you don't come out of the room. I'm going to handle this? . . . Erick Navarro stated: "YES. . . " Esack: And you listened to her. . . ? Erick Navarro stated: "YES. . . "

If you go back to the Relevant preliminary evidence (182) in (Exhibit W.1) volume 2. VT. 117, lines 2 to 16 and VT. 118. Lines 1 to 6.) Fed. R. Evid. 104. Esack Asked Valeria Irene Herrera, "Was Erick home that night? (November 21/22 2013.) . . . Valeria Herrera stated. "YES he was in the Bedroom Sleeping." . . . Esack: Did he stay asleep through the entire incident, even during the time that you would come out and intercede. . . ? Valeria Herrera stated. "NO He WAS SLEEPING but he was able to hear what was going outside and he did know when I would go out of the room because I would let him know." "I'll be like ERICK "I'll be right back, I'm going to go see what's going outside, he goes "OKAY" BUT HE WILL GO BACK TO SLEEP AGAIN." Esack: Did he never come out himself to try to protect either your mom or you. . . ? Valeria Herrera

stated: "NO I NEVER LET HIM GO OUTSIDE TO EVEN TELL THEM ANYTHING." Erick (Vt. 118 lines 4 to 6). "You said Erick went back to sleep during this time that you were out trying to help your mom. . . ? Valeria Herrera stated. "Yes." - !

Those testimonies proves to the SUPREME COURT OF THE UNITED STATES OFFICE OF THE CLERK OF WASHINGTON D.C. 20543-0001. the violation of the (14th) Fourteenth Amendment According to Miller v. Pate 386 U.S. 1:87, 581 P.2d 785, 17, LEd 2d 690 (1967) where "[T]he Fourteenth Amendment cannot tolerate a state criminal conviction obtained by the knowing use of false evidence." Napue v. Illinois 360 U.S. 264 269, 79, 501 P.2d 1173 3 LEd 2d 1217 (1957) "[I]t is established that a conviction obtained through use of false evidence known to be such by representatives of the state must fall under Fourteenth Amendment [.] Moreover "[a] prosecutor has a constitutional duty to correct evidence he or she knows is false, even if it was not intentionally submitted" Mancuso v. Olivarez 292 F.3d 939 957 (9th cir 2002); Napue v. 360 U.S. at 269. Hayes v. Brown 399 F.3d 972, 978 (9th cir 2005).

The false eyewitnesses's testimonies of Erick Alejandro Navarro and Valeria Irene Herrera about the false facts of sexual assault and rapes on Rosa Esmeralda Muchado. Could not be replacing the truthful result of the Biological DNA Evidence test of this case. see the exculpatory DNA evidence in (Exhibit G.) Fed. R. crim. P. 16) According to 183 LEd 2d 89 567 U.S. 50, Williams v. Illinois. "NO EYEWITNESS TESTIMONY COULD REPLACE THAT EVIDENCE" "DNA evidence is usually the prosecutor's most powerful weapon". "The profile that Cellmark provided was not in herently in Culpatory on the Contrary, a DNA profile that tends to exculpate all but one of the more than 7 billions people in the world today the use of DNA evidence to EXONERATE person, who have been wrongful accused. ". as the accused Ruben Herrera. From who, the Supreme court of the United States D.C. 20543-0001. must to consider all excluded, suppressed of evidence in the accused Ruben Herrera's favor, which is considered under the Federal Laws a violation of the accused's right. to confront the false eyewitnesses and victims SIXT Amendment. and have effective assistance of counsel and a Fair Trial under the due process clause 422 U.S. 806 821, Schwartz constitutional Law 87.11 (2d ed 1979).

Because According to Miller v. Pate 386 U.S. 1:87 581 P.2d 785 17, LEd 2d 690 (1967)

the supreme court generally know that when a prosecutor has injected false information, as in this case with the use of the false testimony of Erick Alejandro Navarro, as a supposed eyewitness to inject false information about the accused Ruben Herrera, and inject material evidence, into the trial as the case! "reversed is virtually automatic" "United States v. Rodriguez, 754 F.3d 1122 (2014) U.S. App. LEXIS 1154 (2014) WL 2766197 (9th Cir 2014) The case law in the about circumstances however, is unclear in respect to whether a prosecutor may deliberately inject false information into a trial, but Scapecorn's consequences because she has "Corrected" the information if only at the last minute see Dow v. Virginia 729 F.3d at 1042-1043 finding a Naive violation where "in the course of the trial the prosecutor knowingly elicited and then failed to correct false testimony submitted by Erick Alejandro Navarro against the defendant Ruben Herrera - - !

Please: SUPREME COURT OF THE UNITED STATES OFFICE OF THE CLERK WASHINGTON DC 20543-0001 don't take off the opportunity to the Pro Se (Petitioner) Ruben Herrera, to have a fair Appeal, by thinking for a little moment about the truthful reasons for which the result of the Biological/DNA test was negative from both parties, Rosa Machado and Ruben Herrera. But you have to think more about the result negative on the accused Ruben Herrera, why? the reason of it is based on the RECAPITULATION of Rosa Machado, and Confession by Rosa Machado, by explaining Rosa Machado the conspiracy committed between Valeria Irene Herrera and her? (violation 18 U.S.C. § 241 and 18 U.S.C. § 3531, 1001, 1546) by changing the truthful facts occurred the night of November 21/22 2013 to give the defendant Ruben Herrera more time in Jail, with false allegations of sexual assault and rapes! Confessed in the recantation of Rosa Esmeralda Machado. Supported by the testimony of the Medical Forensic Scientific Analyst SAMUEL SUND #N4425-323-418844, from the L.A.P.D. (LAB) when the prosecutor Elena Abramson Asked Rosa Machado supposed victim of Sexual Assault! - -

In testimonial evidence (831) in (Exhibit X) RT. 988 and RT. 989 Abramson: And you date the letter March 9th - right. . ? Rosa Machado stated: "Yes". . . Abramson: And handed letter to the Defendant's Attorney Miss Esack, before you testified at the preliminary hearing in this case right. . ? Rosa Machado stated: "Yes". . . Abramson: And what you said in the letter is that your first report to the police (Report: 3R.13-1616920, filed on November 22, 2013.) about what the Defendant did hitting you and assaulting you verbally is true, but when the police made me to do the second report (3R.13-1616946,

Filed by the officer virtueta #39470 on 11/25/2013.) "I was really mad at my **HUSBAND** for which he did to me, and my daughter Valeria Herrera and I decided to invent a lie and add another charges to give him more time in Jail (Please Review and detail the context of this relevant written evidence in Exhibit B.) signature evidence Fed. R. Evid. 404(b) signed by Rosa Machado on 3-9-2014 to the Honorable Judge which is a Relevant Evidence under Evid. C. §1223 Admission of co-conspirator, see section 1222. The statement is admitted because it is an act of the conspiracy for which the Party, as a Co-conspirator is legally responsible People v. Lorraine, 90 Cal App 3d 1732, 265 P.2d 897 (1928) see California Criminal Law Practice 471-472 (2nd Ed. Ed. Bar 1964) "When Rosa Machado stated, "The charge that I lied about is the one where he had sexual assaulted me but in reality He had fallen a sleep. . ." this context is an act of conspiracy according to the Law. 18 U.S.C. §241, and also see 18 U.S.C. §242 A: violation of criminal statutes.

Those violations were including to the counsel Justine M. Esack, who was becoming to be a vigorous second prosecutor against her own defended Ruben Herrera, who used the investigator Augustine Lemus Inv. No. 3AAF-00057-14, to find any evidence to the prosecutor, not for the accused, Ruben Herrera, and to find what the prosecutor Elena Abramson has to do to win this case! violating the (IAC) by not investigate points of the truthful facts on the allegations of Valeria H. which could be contradictory, about the false allegations, and testimonies of Valeria Irene Herrera! the claim of IAC any court must determined that the counsel's performance fell "below an Objective standard of reasonableness under prevailing professional norms" People v. Ledesma (1987) 43 C3d 171, 216 quoting Strickland v. Washington (1984) 466 U.S. 668, 104 Sct 2052 and that a reasonable probability exists that "but for counsel's unprofessional errors, the result of the proceedings would have been different" (People v. Ledesma (1987) 43 C3d 171, 218 quoting, Strickland v. Washington (1984) 466 U.S. 668, because Justine M. Esack never presented any evidence of this investigation, IAC!

One of the reason for which the Judge took a Moral turnitude about the recantation of Rosa Machado by saying, "Okay You may answer is all of that correct or some of it correct or none of it correct. . ? You tell us. ." (RT. 987 Lines 8 to 28) Rosa Machado stated: "Yes, I MADE THAT LETTER EXPLAINING TO THE JUDGE APOLOGIZING and that I HAVE EXAGGERATED THE REPORT BECAUSE WHEN I MADE THE LAST REPORT (DR13-166496) "I WAS VERY ANGRY, Valeria H.

I didn't know what had happened to her and when she told me that I felt really angry -- and I told her that I was with her that I will support her and that if he had done that to her that he will have to stay there. She's my daughter. . . (RT. 1260 Lines 17 to 28) Abramson Asked Rosa Machado did Valeria Herrera Just Generally tell you that her dad abused her or did she go into Detail? . . . Rosa Machado stated "she didn't give ANY DETAILS." . . . Abramson. In 2008 -- well let me ask one other question about Valeria once she disclosed that to you, what did you do. . . ? Rosa Machado stated. "well, I COULD NOT believe it because for him His children have been the most important thing He had always Cared for them if something He needed to go the school!"

Please SUPREME COURT OF THE UNITED STATES OFFICE OF THE CLERK WASHINGTON, D.C. 20543
--0001. Review and detail the RECANTATION and CONFESSION OF Rosa Machado from Preliminary evidence (18C) in (Exhibit W) Volume 1. RT. 63 Lines 14 to 28 and RT. 64 Lines 1 to 14, under Federal. 2. Evid. 104. and (Exhibit W1) Volume 2. RT. 41, 42, 43, and RT. 44, under Fed. R. Evid. 104. which confirms, in the testimony of Rosa M. that NO sexual Assaulted occurred on her on November 21/22 of 2013.

For which The San Fernando Superior Court excluded and Suppressed all or any relevant Evidence in the Accused Ruben Herrera favor, violating First.

The First Amendment of the constitution of U.S. by excluding and Suppressing the defendant's Ruben Herrera's testimony, from the presence of the Jurors which could be supported by the result of the Biological/DNA evidence test! A violation because the First Amendment Give us an individual's right to the Freedom of Speech to defend our self see the example in, 564 U.S. 117, "New? : Comm'n on Ethics v. Carrigan", April 27, 2011, where the supreme court of Nevada reversed the case based on the violation of the First Amendment violated based on the negation of the Freedom of Speech. . . my question for you supreme court is: that, if it is the true that according to the Law, the requirement that the Defendant be the first defense witness, see BROOKS v. Tennessee 406 U.S. 605 612-613 32, Led 2d 358 92 1891 (1972) on certiorari the united states' supreme court reversed in Opinion by Brennan J. expressing the view five members of the court, it was held the Statute violated the accused's constitutional right due Process Stewart J. joined Part II, of the court's opinion holding that the statute violated the accused's constl. right to due process. The question for you is. Why the courts will not going to help to Ruben Herrera's right violated!

Because, according to the Law, A criminal defendant has a constitutional right, to testify see Harris v.

New York (1971) 401 U.S. 222 225 91 set 643, a criminal defendant has a constitutional right to effective representation by defense see Strickland v. Washington (1984) 466 U.S. 668 693 set 2052, and counsel has a corresponding duty to provide zealous representation within the bounds of the law see Hawk v. Superior Court (1974) 42 CA 3d 108 126; The ineffective assistance of counsel Justice M. Esack was a conflict of interest for which the Supreme Court of the United States DC. has the knowledge that, when an Attorney decided to represent the defendant, is based on the attorney's experience for those reasons, according to the law [333 U.S. 655] 52 No. the defendant Ruben Herrera was deprived of his right, life, liberty, and property, without due process law according Appellant v. Jullbrown 399 F.3d 972 2005 U.S. App. LEXIS 3744. Because the Defendant's witnesses and Defendant's testimony were fundamentally in a fair trial which was denied to him, on July 2014. [Please Review the Defendant's Declaration of 153 pages written from 2015 to Appeal this case.]

The Sixth Amendment of the Constitution was violated by denying to the defendant Ruben Herrera his right to be confronted with witness's testimony against him, to be cross-examine with his testimony and relevant evidence, witnesses, eyewitness and character evidence, which was excluded and suppressed out of the presence of the jurors, when the Sixth Amendment protects this right, to have compulsory process, for obtain witness in the accused favor. (Please Review the sub-claim 10 S.) Ground Four, where you can find more than (25) twenty five witnesses excluded out of the presence of the jurors whom were waiting to be calling to testify about of the truthful facts, from the false allegations of Valeria Irene Herrera. see 98 LED 20 798 434 U.S. 400 TAYLOR v. ILLINOIS. HEADNOTES: ALTHOUGH, an accused's right under the compulsory process clause of the Federal Constitution's SIXTH Amendment - to present evidence in the accused favor "for which you have to review and detail the supplement of the statement of the fact of the case (pages 1 through 363) with the most important (6) SIX Ground of this Appeal (page 364 through 486.) sub-claims where you can find facts of the case with relevant evidence which proves those issues of this petition. . .

The Eighth Amendment of the Constitution of the U.S. was violated by excluding and suppressing all and (ANY) relevant material character evidence (1949) which were in the Plaintiff of the Defendant Ruben Herrera, in (Exhibit H.) Fed. R. Evid. 404, 405, 608, from before of his trial, with witnesses's statements, testimonies, declarations, about Valeria H. and Ruben H. and Rosa H. -

witnesses of character which could be used in trial of July of 2014, but those weren't called to testify in the Accused Ruben Herrera favor, when the character of Ruben Herrera was one of the first allegations of this case. According to the 93 LED20 924 U.S. 538 California v. Brown, "HEADNOTES" The Eighth Amendment Jurisprudence of the United States Supreme Court, reverse the case (cf. California v. Brown) "Because any relevant mitigating evidence regarding his character or record and any of the circumstances of the offense, violation of the Eighth and Fourteenth Amendments by causing the rape penalty to be and ministered in an arbitrary and unpredictable fashion or by preventing the jury from considering relevant mitigating evidence". According to the opinion of the Supreme Court of Justice (and criminal Law § 82.83 93: evidence § 850-8th Amendment) it is a violation when the defendant be allowed to introduce any relevant mitigating evidence as in the accused Ruben Herrera's case, were denied to introduce those which are in character evidence (Exhibit H) waiting to be heard and reviewed from before the Ruben H's trial on July of 2014.

Fourteen Amendment was violated by excluding All the Guarantees that the First, Fifth, Sixth, Eighth, and Fourteenth Amendment, would have had to the accused, Ruben Herrera's Right, Protected under the Compulsory Process clause of the Federal Constitution, First, Fifth, Sixth, Eighth, and Fourteenth Amendments, which has been the vehicle for applying nearly all of the Specific Guarantees in the First ten Amendments to state actions by selectively incorporating these right into this Amendments, (The American Constitutional Law § 11-2 (2d ed 1988) which are violated by the prosecutor Elena Abramson and the court of San Fernando CA 9/13/40 because the Judge under the guise of examining witnesses must not become an advocate of either party People v. Clark (1992) 3 C4th 411 A3; People v. Rigney (1961) 55 C2d 236, 241. Judges have a duty to be impartial and make sure that the defendant in a criminal case is give a fair Trial on the fact and not a trial on the temper or whimsies of the Judge, who sits in his case, "People v. Mahaney (1927) 201 C 618, 626; People v. Blackburn (1982) 139 CA 3d 761 764. Similarly Judge is "Obligated" "to see that the Trial is fair to both Defendant Ruben Herrera and the prosecution People v. Blackburn supra; People v. Ferguson (1981) 126 CA 3d SUPP. 22 30 n4". In a court trial, the Judge not only rule on issue of law (Pen.C. § 1124) but is the Trier of fact. The final arbiter of which the Prosecutor has to have its burden of proving the defendant's guilty beyond a reasonable doubt (Pen.C. § 11167) those are part of the reasons for which the Supreme Court of the United could Grant the Petitioner Ruben Herrera for a writ of certiorary invoked under 28 U.S.C. § 1254 (1).

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 15 of September 2019 Name Ruben Herrera Signature Ruben Herrera AN5012.

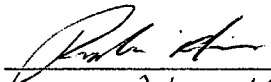
SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001

CONCLUSION

For the foregoing reasons, appellant's conviction must be reversed.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

 Ruben Herrera.

Date: September 15, 2019.

ORIGINAL