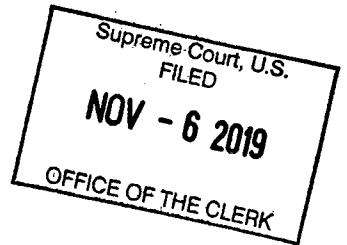


No. 19-6649

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



Alfred L. Brooks — PETITIONER
(Your Name)

VS.

Dean Borders, et, al — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Ninth Circuit Court of Appeals

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

PETITION FOR WRIT OF CERTIORARI

Alfred L. Brooks

(Your Name)

P.O. Box 500

(Address)

Chino, CA. 91708

(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

- 1) Can state District Attorney's Office and/or California Board of Parole Hearings utilize Parole Consideration Hearings as extrajudicial proceedings to retry and convict petitioner and/or other prisoners for dismissed or previously adjudicated allegations?
- 2) Whether SLT District Attorney's Office breached petitioner's 1989 Contractual Plea Agreement by presenting and arguing previously dismissed allegations as integral parts of petitioner's conviction during a 2016 Parole Consideration Hearing.
- 3) Whether SLT District Attorney's Office violated petitioner's Federal Due Process Rights and subjected him to Double Jeopardy by utilizing petitioner's 2016 Parole Consideration Hearing as an extrajudicial court system to retry, convict, badger, ridicule, and subject petitioner to embarrassment in relation to allegations dismissed before and during the 1988 Preliminary Hearing.
- 4) Can Parole Boards deny parole to petitioner or any other prisoner for none convictions?
- 5) Whether California Board of Parole Hearings violated Brooks Federal Due Process Rights by depriving him parole, in large part, because petitioner refused to confess to and provide insight into dismissed allegations.
- 6) Can California Board of Parole Hearings require petitioner to admit guilt and provide insight into dismissed allegations as a prerequisite of granting parole?
- 7) Can California Board of Parole Hearings require petitioner to admit guilt of a first-degree murder of his wife, as a prerequisite of parole, when he was convicted of second-degree murder by way of Contractual Plea Agreement, and entered without affirming guilt thereof.

QUESTION(S) PRESENTED

- 8) Whether California Board of Prison Hearings subjected petitioner to Cruel and Unusual Punishment by utilizing dismissed allegations to classifying him as **high risk** (permanently), and thereby adding new charges to the conviction, and subsequently depriving him parole as a result thereof?
- 9) Can California Board of Parole Hearings summarily exclude petitioner from the benefits of California's newly enacted Youthful Offenders Act, because he refuses to admit guilt of previously dismissed allegations?

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[X] 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:

Dean Borders

Ali Zarrinnam

Vijay Desai

Jamie Pesce

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

- 1) Schiro v. Farley (1994) 510 U.S. 222 p. 8
- 2) North Carolina v. Pearce, 395 U.S. 711, 717 (1969) (footnote omitted) p. 8
- 3) Alfred v. Gillespie, 2013 U.S. dist. LEXIS 185948; p.9
- 4) State of Conn. Ex rel. Blumenthal v. Tobacco Valley Sanitation Serv. Co.,
818 F. Supp. 504, 506 (D. Conn. 1993). P.9
- 5) United States v. Wilson, 420 U.S. 332, 339 (1975). P.9
- 6) United States v. DiFrancesco, 449 U.S. 117, 136, 66 L.Ed.2d 328, 101 S Ct.
426 (1980). P.9
- 7) Wilson, supra, at 343. P.9
- 8) People v. Pedroza (2014) 231 CA4th 635. P.9
- 9) Yeager v. U.S. (2009) 557 U.S. 110.
- 10) (Roper v. Simmons (2005) 543 U.S. 551, 560 [161 L.Ed.2d 1, 125 S.Ct.1183]
(Roper). P.10
- 11) Robinson v. California (1962) 370 U.S. 660, 667 [8 L.ed.2d 758, 82 S.Ct. 1417] [8th
Amendment is binding on the states through the 1^{4th} Amendment].) p.10
- 12) Miller, supra, 567 U.S. at p. __ [132 S. at p. 2468]
[“chronological age and hallmark features”]. P.10
- 13) Graham, supra, 543 U.S. at p. 75 [“Meaningful opportunity to obtain release”]. P.10
- 14) Roper, supra, 543 U.S. at p. 571 [diminished culpability of juveniles”]. P.10
- 15) Caballero, supra, 55 Cal 4th at p.268, fn.4). p.10
- 16) Santobello v. New York, 404 U.S. 257, 262, 30 L.Ed. 2d 427, 92 S. Ct. 495. P.10
- 17) United States v. Garcia, 519 F.2d 1343, 1344-45 (9th Cir. 1975). P 10-11

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

- | | |
|---|------|
| 18) <u>Knight v. United States</u> , 611 F.2d 918, 921 (1 st Cir. 1979). | P 11 |
| 19) <u>United States v. Anderson</u> , 970 F.2d 602, 607 (9 th Cir. 1992). | P.11 |

Statutes And Rules

OTHER

- | | |
|---|-------|
| 1. <u>Cal. P.C. 3041 (b)</u> (2010). | P .14 |
| 2. Cal. Pen. Code sect. 3051, subd. (e) | p. 10 |
| 3. Cal. Pen. Code sect. 4801, sub (c) | p. 10 |

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4-6
REASONS FOR GRANTING THE WRIT	7-16
CONCLUSION.....	17

INDEX TO APPENDICES

APPENDIX A	Decision of the United States Court of Appeals, Ninth Circuit	18
APPENDIX B	Decision of the United States District Court, and the Findings & Recommendations of United States Magistrate Judge.	19-31
APPENDIX C	Decision of State Trial Court.	32-37
APPENDIX D	Decision of State Court of Appeals.	38-39
APPENDIX E	Decision of State Supreme Court.	40.
APPENDIX F		

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix C to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the State Appeals court 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.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 08/22/2019.

☒ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Page | 3

- 1) United States Fourteenth Constitutional Amendment: “No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”
- 2) United States Eighth Constitutional Amendment: ...“nor cruel and unusual punishments inflicted.”

STATEMENT OF THE CASE

Page | 4

On 04/23/88 petitioner was arrested for first-degree murder of his wife, along with the additional charges of kidnapping and several other related allegations. At the Preliminary Hearing, the prosecution could produce neither any witness nor a single victim necessary to substantiate the kidnapping and sex related allegations. Wherefore, all charges were dismissed with the exception of the murder and gun allegation (see petition at exhibits B, C, & F).

In 1988, petitioner entered a contractual plea agreement with the State of California, where he entered a plea of second-degree murder, without affirming actual guilt thereof (i.e., I asserted sudden quarrel, self-defense and unintentional murder). The plea engrafted half-time credits and the gun allegation was dismissed (petition at exhibits B, C, & F). However, the 1988 Amended Probation Report engrafted reference and personality assessment in relation to all previously dismissed allegations, and was subsequently forwarded to the California Department of Corrections, by El Dorado County District Attorney's Office, while neglecting to forward the Preliminary Hearing Transcripts (petitioner was not provided a copy of the Preliminary Hearing transcripts neither).

Prior to petitioner's scheduled 2016 Parole Consideration Hearing, El Dorado County District Attorney's Office, forwarded documentation to California Board of Parole Hearings related to dismissed allegations. The Board's Forensic Psychologist utilized the Probation Report and recent documents provided by El Dorado County District Attorney's Office to reclassify petitioner's commitment offense as a multiple victim's and sex related murder conviction, and subsequently classified petitioner as a permanently high risk (petition at exhibits A, pgs. 91. L.9-12, 17-22; p.92.L.11-16; p.93.L.5-20; p. 95.L.5-10; p.35 L.8-24; and p.36. L.19-20).

STATEMENT OF THE CASE

Page | 5

Respondents Ali Zarrinnam and Vijay Desai, instructed their employed forensic psychologist, J. Lamer, to assess petitioner's risk assessment under Static-99R, although they simultaneously knew that petitioner's commitment offense does not engraft any such related offense. As a result, petitioner was arbitrarily classified as a permanently high-risk sex offender and hence transformed his second-degree murder conviction into a sex related murder conviction; thereby transforming petitioner's life with the possibility of parole into a sentence of life without the possibility of parole (petition at exhibits A, pgs. 91. L.9-12, 17-22; p.92.L.11-16; p.93.L.5-20; p.95.L.5-10; p.35 L.8-24l p.36.L.19-20). Consequently, respondents used Static-99R as an aegis to punish petitioner with extrajudicial charges and to justify extended incarceration while knowing that Static-99R is a pseudo science and not approved for risk assessment in relation to petitioner's commitment offense (petition at exhibits O). In addition, California Board of Parole Hearings are legally prohibited from granting parole to any designated high risk prisoner.

On 09/21/2016, petitioner appeared before California Board of Parole Hearings for Consideration of Parole, and during the Hearing respondents Ali Zarrinnam and Vijay Desai spent a considerable amount of time ridiculing, subjecting petitioner to embarrassment, badgering and retrying petitioner for first-degree murder and the dismissed allegations. Respondents demanded that petitioner admit guilt of first-degree murder and all dismissed allegations, as well as provide insight into the causative factors. Respondent Jamie Pesce, representative of El Dorado District Attorney's Office, also utilized the Parole Consideration Hearing to retry, convict, badger, ridicule and subject petitioner to embarrassment in relation to dismissed allegations, and argued that that petitioner committed first-degree murder (petition at exhibits A, p.76 L.19-25; p.78 L.25-p.79 L.1-16; p.80 L.17-21; p.75 L.4-9).

STATEMENT OF THE CASE

Page | 6

Respondents relied heavily upon the 1988 Probation Report and the related 2016 psychological assessment report to press for a systematic confession of first-degree murder, all dismissed allegations and to retry petitioner for a juvenile plea bargain conviction. Petitioner refused to make self-incriminating statements, admit guilt of first-degree murder, nor admit guilt to dismissed allegations. Subsequently, petitioner was denied Parole Consideration Hearing for seven additional years (petition at exhibits G; exhibits A, at p.96.L.12-15).

Respondents concluded that because petitioner failed and refused to admit guilt of dismissed allegations, an unrelated juvenile offense, and first-degree murder that California's recently enacted Youthful Offenders Act did not apply to petitioner.

Petitioner believes and thereupon alleges that respondents utilized his 2016 Parole Consideration Hearing as an extrajudiciary proceeding to retry and punish petitioner multiple times for the same dismissed allegations and foreclosing a meaningful opportunity to obtain release. Thereby depriving petitioner liberty without due process and equal protection of the laws, and consequently subjecting him to cruel and unusual punishments.


REASON FOR GRANTING THE PETITION

Page | 7

1. Prevent all State Parole Boards use of Parole Consideration Hearings as extrajudicial court proceedings to retry, convict and punish any citizen that have been acquitted or otherwise exonerated of criminal allegations.
2. Parole Consideration Hearings are no substitute for Criminal Court Systems; and to allow respondents and any other Parole Board to freely usurp the authority of the established Criminal Justice System is an affront to State and federal authority, and in effect erodes the established protections of the United States Constitution.
3. Petitioner and all similarly situated citizens of California and these United States of America, should not be hard-pressed and confined for any allegation that they have not been allowed to confront their accusers and subsequently duly convicted in an established Court System.
4. It is clear beyond doubt of any rational jurist, that neither respondent Jamie Pesce nor EL Dorado County District Attorney can produce any material evidence necessary to bring to trial and obtain a conviction of any crime that petitioner has not already confessed and been convicted of. To that end, petitioner freely gave his DNA to the State of California and the FBI, and happily waited thirty-one years to be officially charged with a new crime because he is confident that he has not committed any other criminal offense he has not already been convicted. Hence, this is another reason why the United States Supreme Court should intervene and neither allow respondents nor any other Parole Board to usurp the United States Constitution and be used as an extrajudicial lynch mob system to try and convict United States Citizens of crimes they are innocent thereof.

REASON FOR GRANTING THE PETITION

Page | 8

- 
5. Neither respondents nor any other State actor should be allowed to utilize Parole Consideration Hearings as an aegis to breach and otherwise change Contractual Plea Agreements.
 6. No State district attorney's office should be allowed to usurp legitimate criminal prosecutions and the United States Constitutional protections guaranteed to all of its citizens, and subsequently conjure up extrajudicial vigilantly lynching's of its citizens; not even the most infamous. Petitioner should be afforded the same innocent until proven guilty standard that the current president of the United States of America "Donald Trump" has received before and during his presidency.

Under evolving standards of decency, this the Highest Constitutional Court of the United States of America, consciousness should be moved to undue and prevent all State Parole Boards from being utilized as extrajudicial systems to retry and/or convict citizens, and arrogantly display contumacy towards the United States Constitution.

Here, the United States Constitution is clear; even clearer is respondents' contumacy thereof:

- A. United States Fourteenth Constitutional Amendment: The Double Jeopardy Clause of the Fifth Amendment to the United States Constitution, applicable to the States through the Fourteenth Amendment, and Article I, section 15, of the California Constitution, guarantee that a person shall not be placed twice "in jeopardy" for the "same offense." The double jeopardy bar protects against a second prosecution for the same offense following an acquittal or conviction, and also protects against multiple punishments for the same offense. Schiro v. Farley (1994) 510 U.S. 222; North Carolina v. Pearce, 395

REASON FOR GRANTING THE PETITION

Page | 9

U.S. 711, 717 (1969) (footnote omitted); Alfred v. Gillespie, 2013 U.S. dist. LEXIS 185948; State of Conn. Ex rel. Blumenthal v. Tobacco Valley Sanitation Serv. Co., 818 F. Supp. 504, 506 (D. Conn. 1993). These protections stem from the underlying premise that defendant should not be twice tried or punished for the same offense. United States v. Wilson, 420 U.S. 332, 339 (1975). The Clause operates as a “bar against repeated attempts to convict, with consequence subjection of the defendant to embarrassment, expense, anxiety, and insecurity, and a possibility that he may be found guilty even though innocent.” United States v. DiFrancesco, 449 U.S. 117, 136, 66 L.Ed.2d 328, 101 S Ct. 426 (1980). When a defendant has been acquitted, the clause guarantees that the State shall not be permitted to make repeated attempts to convict him.” Wilson, supra, at 343. “If the case is dismissed on the basis of insufficient evidence to support the conviction as a matter of law, double jeopardy does bar a retrial. An acquittal encompasses any ruling the prosecution’s proof is insufficient to establish criminal liability for an offense. Thus an acquittal includes a ruling by the court that the evidence is insufficient to convict, and any other ruling that relates to the ultimate question of guilt or innocence.” People v. Pedroza (2014) 231 CA4th 635. See also, Yeager v. U.S. (2009) 557 U.S. 110. “Criminal charges not resulting in a conviction (charges which result in acquittal or dismissal for any reason) shall not affect the parole date unless the factual circumstances surrounding the charges are reliably documented and are an integral part of the crime for which the prisoner is currently committed to prison.”

- B. United States Eighth Constitutional Amendment: The Eight Amendment prohibition on cruel and unusual punishment “guarantees individual the right not to be subjected to

REASON FOR GRANTING THE PETITION

excessive sanctions,” (Roper v. Simmons (2005) 543 U.S. 551, 560 [161 L.Ed.2d 1, 125 S.Ct.1183] (Roper); see also, Robinson v. California (1962) 370 U.S. 660, 667 [8 L.ed.2d 758, 82 S.Ct. 1417] [8th Amendment is binding on the States through the 1^{4th} Amendment].) The California Legislators has declared that “[T]he youth offender parole hearing to consider release shall provide for a meaningful opportunity to obtain release.” (Cal. Pen. Code sect. 3051, subd. (e)) and that in order to provide such a meaningful opportunity, the Board “shall give great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity” (Cal. Pen. Code sect. 4801, sub (c)). These statutory provisions echo language in constitutional decisions of the United States Supreme Court. See Miller, supra, 567 U.S. at p. __ [132 S. at p. 2468] [“chronological age and hallmark features”]; Graham, supra, 543 U.S. at p. 75 [“Meaningful opportunity to obtain release”]; Roper, supra, 543 U.S. at p. 571 [diminished culpability of juveniles”]; accord, Caballero, supra, 55 Cal ^{4th} at p.268, fn.4).

- C. United States Fourteenth Constitutional Amendment: “guarantees that no person shall be deprived of life, liberty or property without Due Process of the law.” Breach of Contractual Plea Agreement and utilizing California’s Board of Parole Hearings to repeatedly retry and convict petitioner for dismissed allegations, and deprive parole arguably deprives liberty without due process of the law. Santobello v. New York, 404 U.S. 257, 262, 30 L.Ed. 2d 427, 92 S. Ct. 495 (“when a plea rests in any significant degree on a promise or argument of the prosecutor, so that it can be said to be a part of the inducement or consideration, such promise must be fulfilled.”) United States v.

REASON FOR GRANTING THE PETITION

Garcia, 519 F.2d 1343, 1344-45 (9th Cir. 1975). Moreover, “[a] guilty plea becomes involuntary, and the ensuing sentencing subjected to collateral attack, when the prosecutor fails to perform his side of plea agreement.” Knight v. United States, 611 F.2d 918, 921 (1st Cir. 1979). See also, United States v. Anderson, 970 F.2d 602, 607 (9th Cir. 1992) (“ a plea induced by an unfulfillable promise is no less subject to challenge than one induced by a valid general promise which the government simply fails to fulfill.”)

Lower courts misconstrued petitioner’s contentions and much of the evidence presented, and thereby rendered decisions that amounted to miscarriages of justice. The State Trial Court set the stage for perpetual fraud of court in this case by concealing the Preliminary Transcripts, shifting the issues raised in the petition, pretending not to know that petitioner’s conviction engraft only a second-degree murder, and that it was illegal for respondents Ali Zarrinnam and Vijay Desai, to utilize Parole Consideration Hearing, to retry and convict petitioner for dismissed allegations. 1/ Subsequently in the District Court, petitioner pointed out multiple miscomprehensions of facts, evidence and laws in relation to the claims that resulted in an unfair decision in his Objections to Magistrate Judge Findings and Recommendations; however, district court accepted such Findings and Recommendations.

1. Magistrate judge found that “the petition does not challenge the underlying criminal judgment that resulted in petitioner’s incarceration.” At p.2

However, ground one of the petition unambiguously incorporate “Deprivation of Liberty without Due Process & Equal Protection, Double Jeopardy, Breach of Plea Contract.”

See p.6 of Petition.

REASON FOR GRANTING THE PETITION

Page | 12

In addition, the supporting facts clearly State that the Breach of Plea Contract took place on 09/21/16, named the respondents that breached the Contractual Plea Agreement as Jamie Pesce, on behalf of El Dorado County District Attorney's Office; Ali Zarrinnam and Vijay Desai on behalf of California Board of Parole Hearings), and subsequently in the supporting facts section petitioner laid out respondents acts and omissions that caused the Breach of Plea Agreement and double Jeopardy. Ibid.

Petitioner's Contractual Plea Agreement engrafted "15-years to life with available half-time credits." There was no additional charges or conviction engrafted into the 1988 Contractual Plea Agreement with the State of California. See exhibits B, C, & F at Petition. The petition clearly alleged that petitioner's Contractual Plea Agreement was breached by Jamie Pesce, on behalf of EL Dorado County District Attorney's Office (the same office that entered the 1988 Contractual Plea Agreement with petitioner), by utilizing the 2016 Parole Consideration Hearing as an extrajudicial court system to retry, convict, badger, ridicule and subject petitioner to embarrassment in relation to dismissed allegations (rather than focusing solely upon the second-degree murder conviction). Because petitioner refused to take responsibility for, nor give insight into the causative factors of dismissed allegations that he did not commit nor was he convicted thereof, respondents Ali Zarrinnam and Vijay Desai issued a seven year denial. It follows that the State of California reneged on the available half-time credits and added additional charges after petitioner had already served nearly double the 15-year sentence. Petitioner's sentence was and remains an illegal sentence. See exhibits B.C; & F at petition.

REASON FOR GRANTING THE PETITION

Page | 13

2. Magistrate Judge Report wrongfully found that “petitioner was arrested and convicted multiple times for sex-related offenses” (at p.5.L.27-28 of Magistrate Report), and further concluded that respondents use of such false and unrelated evidence to deny parole does not offend Due Process and the Eight Amendment to the U.S. Constitution.

Ibid

Here, the evidence clearly reveals that petitioner’s 1988-commitment offense only engrafted a second-degree murder conviction. Petitioner was not convicted multiple times for sex-related offenses! In 1988, EL Dorado County District Attorney’s Office raised multiple sex-related and kidnapping allegations against petitioner. However, the court dismissed those allegations at the Preliminary Hearing because the prosecution could not produce any evidence, a victim or a single witness to support such allegations. Yet on 09/21/16, respondent Jamie Pesce, on behalf of EL Dorado County District Attorney’s Office and the State of California, utilized the 2016, Parole Consideration Hearing as an extrajudicial court system to relitigate, retry, convict, badger, ridicule and subject petitioner to embarrassment in relation to dismissed allegations (petition at exhibits A, p.76 L.19-25; p.78 L.25-p.79 L.1-16; p.80 L.17-21; p.75 L.4-9).

Petitioner was hard pressed, by respondents, to confess to and provide insight into the causative factors of the dismissed allegations (see petition: supporting facts for grounds for relief 1-2), and when he refused parole was denied, in large part, as a result thereof (Ibid; Petition at exhibits G; exhibits A, at p.96.L.12-15; petition at exhibits A, pgs. 91. L.9-12, 17-22; p.92.L.11-16; p.93.L.5-20; p.95.L.5-10; p.35 L.8-24l p.36.L.19-20).

REASON FOR GRANTING THE PETITION

Page | 14

In addition, petitioner presented clear facts and evidence to lower courts, that revealed how the Board's hired psychologists were directed by respondents Ali Zarrinnam and Vijay Desai to utilize all dismissed sex-related and kidnapping allegations as evidence to politically designate petitioner as a permanently High-Risk Sex Offender, and hence transformed petitioner's conviction into a serial sex related murder conviction (Ibid). Thus, further transforming petitioner's sentence into life without the possibility of parole because California law prohibit the Board of Parole Hearings from ever paroling High Risk prisoners. See Cal. P.C. 3041 (b) (2010).

In essence, the record before the lower courts, as here, unambiguously reflect that petitioner was deprived due liberty because respondents unconstitutionally utilized the 2016 Parole Consideration Hearing as an extrajudicial proceeding to resentence petitioner to a sex-related murder conviction. Such is the unconstitutional proceedings and facts raised before lower courts, and in this Highest Court of the United States of America, in attempt to support his claims that on 09/21/16, respondents:

- Breached the 1988 Contractual Plea Agreement
- Subjected petitioner to Unconstitutional Double Jeopardy
- Subjected petitioner to Cruel and Unusual Punishment; and
- Otherwise hold petitioner in custody in violation of the U.S. Constitution and laws of the United States of America.

Here, the record reflect that none of the reasons respondents stated to deny petitioner parole are related to petitioner's actual commitment offense, and are not a threat to public safety. False

REASON FOR GRANTING THE PETITION

Page | 15

and/or impermissive evidence automatically result into an unfair hearing and deprivation of liberty without due process and equal protection.

Indeed, the federal courts are prohibited from reweighing evidence used in a parole proceeding; however, it is well established that in order for any person to receive Due Process, whether in a Parole Board or Court proceeding, the evidence used to deprive liberty must be legally admissible evidence before it can be used for or against a person. In this case, before the lower courts and now this High Court, it was not; and respondents unambiguously subjected petitioner to Double Jeopardy by way of an extrajudicial proceeding, Cruel and Unusual Punishment and violated his 1988 Contractual Plea Agreement.

Wilson, *supra*, at 343. “If the case is dismissed on the basis of insufficient evidence to support the conviction as a matter of law, double jeopardy does bar a retrial. An acquittal encompasses any ruling the prosecution’s proof is insufficient to establish criminal liability for an offense. Thus an acquittal includes a ruling by the court that the evidence is insufficient to convict, and any other ruling that relates to the ultimate question of guilt or innocence.” People v. Pedroza (2014) 231 CA 4th 635. Yeager v. U.S. (2009) 667 U.S. 110. “Criminal charges not resulting in a conviction (charges which resulted in acquittal or dismissal for any reason) shall not affect the parole date unless factual circumstances surrounding the charges are reliably documented and are an integral part of the crime for which the prisoner is currently committed to prison.” The Eight Amendment prohibition on cruel and unusual sanctions,” (*Roper v. Simmons* (2005) 543 U.S. 551, 560 [161 L.Ed. 2d 1, 125 S.Ct. 1183] (*Roper*); see Robinson v. California (1962) 370 U.S.

REASON FOR GRANTING THE PETITION

Page | 16

660, 667 [8 L.Ed. 2d 758, 82 S.Ct. 1417] [8th Amendment is binding on the states through the 14th Amendment].)

In summation, respondents have not only deprived petitioner liberty without due process and equal protection of the law during his 2016 Parole Consideration Hearing, they have additionally set the stage of transforming petitioner's conviction into life without the possibility of parole, while openly showing contumacy towards the United States Constitution, as well as, this High Court's multiple rulings against Double Jeopardy.

It is likely that many Parole Boards throughout this the United States of America are being utilized as extrajudicial court systems to retry, convict and unconstitutionally punish citizens of the United States of America, just as was done to petitioner. This court should not allow such practices to go untrammelled even if only one citizen is illegally confined, because turning a blind-eye to one injustice, as the lower courts have done, shall, as history has proven many times over, inevitably metastasize into widespread practices, complete corrosion of the United States Constitution and rule of law, and hence state actors anarchism.

1/

In this case, before the Preliminary Hearing, it was revealed that the victim's grandfather was employed by EL Dorado County Court ; the mother was employed by EL Dorado County Public Defender's Office, and was close friends with the officers that raised the false kidnapping and sex related allegations, as well as, close friends with petitioner's appointed Public Defenders, and. In addition, the mother was employed as a chaplain for EL Dorado County Jail. Petitioner believes therein lay the politics behind the false and dismissed allegations, as well as, the initial false first-degree murder allegations.

///

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

em. A. Brooks

Date: 11/04/19