

No. 19-7285

ORIGINAL

Supreme Court, U.S.
FILED

DEC 11 2019

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

IN RE

WILKINSON — PETITIONER
(Your Name)

vs.
ATTORNEY GENERAL (calif.) — RESPONDENT(S)

ON PETITION FOR A WRIT OF HABEAS CORPUS

EXTRAORDINARY WRIT (RULE 20)

PETITION FOR WRIT 2254

(Pro.
Per.)

LAWONE WILKINSON

(Your Name) P.O. BOX 1905

California Correction Institution

(Address)

Tehachapi, Calif. 93581

(City, State, Zip Code)

T-47584

(Number)
PRISON

QUESTION(S) PRESENTED

The case at hand is a business dispute \rightarrow transformed into a criminal case; ALL auto repair shops are \rightarrow MANDATED too \rightarrow COMPLY with California's auto repair \rightarrow LAWS! The auto repair shop in this case \rightarrow FAILED too COMPLY with California's auto repair LAWS!

How can petitioner be charged or convicted for ROBBERY, when \rightarrow the MANDATED auto repair LAWS: 9884.16 and 9884.9, "CONFLICTS and INVALIDATES the ELEMENTS of ROBBERY," specifically forces the auto repair shop too FORFEIT their POSSESSION and PROPERTY INTERESTS, for parts, labor and authorization contract?

How come petitioner has been \rightarrow convicted with the USE of DECEIVING and TINTED testimony?

How come the "MANDATED" auto repair LAWS were NOT APPLIED at \rightarrow petitioner's trial?

QUESTION(S) PRESENTED

Under Habeas Corpus, can this Court take NOTICE of a previous UNconstitutional ERROR having a Substantial injurious EFFECT and RIGHTS?

Under Habeas Corpus, when a pro. per. prisoner with DILIGENCE and CAUSE has DISCOVERED NEW EVIDENCE; and has COMPLIED with ALL → State/Federal LAWS and RULES governing → filings for NEW EVIDENCE; why is petitioner being DENIED habeas corpus review? (you GOT to SEE this)

In the State of California, can auto repair shops operate an **ILLEGAL BUSINESS**; that **LURES** customers in for services, and a business **DISPUTE ENSUES** because of services; can an auto repair shop use **CRIMINAL THREATS** and **DISPLAY FIREARMS** to ENFORCE an **ILLEGAL BENEFIT** of **LIEN**?

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APPENDIX F

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF 2254§. HABEAS CORPUS

Petitioner respectfully prays that a writ of HABEAS to SHOW CAUSE be ISSUED.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at pages, 10-16 to the petition and is
 reported at Case # 19-72574; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

The opinion of the United States district court appears at Ex. B to the petition and is
 reported at Case # CV 07-2658-DOC (MAN); 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 pages, 8 to the petition and is
 reported at Case # S256261; or,
[] has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the STATE APPEAL'S court appears at Ex. A to the petition and is
 reported at Case # B174549; or,
[] has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

For cases from federal courts: "TAKE NOTICE"

The date on which the United States Court of Appeals decided my case was 11-20-19 (Form 12)

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). OR AS FIT

Petitioner's FORM 12, and ORDER DENYING are at Pet. pgs. 10-16! This petition in its ENTIRE SUBSTANCE was Attached with FORM 12; CLEARLY the DENIAL is INADEQUATE!

For cases from state courts: "TAKE NOTICE"

The date on which the highest state court decided my case was 9-11-19. A copy of that decision appears at Pet. pgs. 7-8.

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). OR AS FIT

APPLICABLE to ABOVE! California Courts and Federal Courts have ESTABLISHED CLEAR EXCEPTIONAL CIRCUMSTANCES that require HABEAS REVIEW; NEW EVIDENCE!

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:

PLEASE COMPLETE THE FOLLOWING: (Check appropriate number)

This petition concerns:

1. a conviction and/or sentence.
2. prison discipline.
3. a parole problem.
4. other.

RELATED CASES

1. Venue

- a. Place of detention California Correctional Institute
- b. Place of conviction and sentence Criminal Justice center (Dept. 117)

2. Conviction on which the petition is based (*a separate petition must be filed for each conviction being attacked*).

- a. Nature of offenses involved (*include all counts*): Assault with Firearm/criminal threats
Attempted murder/ ROBBERY
- b. Penal or other code section or sections: Count 1&2: 245(F)(2) PC Fel/ Count 3+5: 422 PC.Fel/
Count 4: 664-181(4) PC. Fel/ Count 6&8: 211 pc. Fel.

c. Case number: BA-253928

d. Date of conviction: 1-22-04 (Trial Month)

e. Date of sentence: 4-7-04

f. Length of sentence on each count: (37 years total)

g. Plea (*check one*):

Not guilty

Guilty

Nolo contendere

h. Kind of trial (*check one*):

Jury

Judge only

3. Did you appeal to the California Court of Appeal from the judgment of conviction?

Yes No

If so, give the following information for your appeal (*and attach a copy of the Court of Appeal decision if available*):

a. Case number: B174549 (copy Attached) EX. A

b. Grounds raised (*list each*):

(1) Admitted evidence 110(6)

(3) Evidence insufficient to prove intent to kill
(4) Failed to instruct lesser offenses
(5) Penal Code 654 barred separate punishments
(6) Joined with co-appellant
c. Date of decision: 7-29-05
d. Result Affirming in part, reversing in part

4. If you did appeal, did you also file a Petition for Review with the California Supreme Court of the Court of Appeal decision? Yes No

If so, give the following information (and attach copies of the Petition for Review and the Supreme Court ruling if available):

a. Case number: N/A
b. Grounds raised (list each):
(1) Admitted 1101(e) evidence
(2) Evidence insufficient to prove intent to kill
(3) Failed to instruct lesser offenses
(4)
(5)
(6)
c. Date of decision: 11-2-2005
d. Result Petition denied

5. If you did not appeal:

a. State your reasons

b. Did you seek permission to file a late appeal? Yes No

6. Have you previously filed any habeas petitions in any state court with respect to this judgment of conviction?

Yes No

If so, give the following information for each such petition (use additional pages, if necessary, and attach copies of the petitions and the rulings on the petitions if available):

a. (1) Name of court: Los Angeles Superior Court
(2) Case number: BA 253-928
(3) Date filed (or if mailed, the date the petition was turned over to the prison authorities for mailing): 6-12-2006

(4) Grounds raised (list each):

(a) Admitted 1101(b) evidence
(b) Attorney Ineffective
(c) Prosecutor Misconduct
(d)
(e)
(f)

(5) Date of decision: 8-28-2006

(6) Result Petition denied

(7) Was an evidentiary hearing held? Yes No

b. (1) Name of court: California Supreme Court
(2) Case number: 5146697

(3) Date filed (or if mailed, the date the petition was turned over to the prison authorities for mailing): 9-15-2006

(4) Grounds raised (list each):

(a) Admitted 1101(b) evidence
(b) Attorney Ineffective
(c) Prosecutor Misconduct
(d) Judge Bias
(e) Equal Protection Violation
(f)

(5) Date of decision: 3-28-2007

(6) Result Petition denied

(7) Was an evidentiary hearing held? Yes No

c. (1) Name of court: Los Angeles Superior Court
(2) Case number: BA 253928-02

(3) Date filed (or if mailed, the date the petition was turned over to the prison authorities for mailing): 11-14-2018

(4) Grounds raised (list each):

(a) THE "START" OF PETITIONING
(b) WITH THIS
(c) NEWLY DISCOVERED EVIDENCE
(d)
(e)
(f)

(4) Grounds raised (list each):

(a) PROOF=INVALID STATUTE=ISSUE
(b) with a nexus
(c) CREDIBILITY EVIDENCE
(d)
(e)
(f)

(5) Date of decision: 11-20-2018

(6) Result Petition denied

(7) Was an evidentiary hearing held? Yes No

b. (1) Name of court: California Appeals Court

(2) Case number: B 294468

(3) Date filed (or if mailed, the date the petition was turned over to the prison authorities for mailing): 12-17-2018

(4) Grounds raised (list each):

(a) "NEWLY DISCOVERED EVIDENCE"
(b) of
(c) PROOF = INVALID STATUTE = ISSUE
(d) with a nexus
(e) CREDIBILITY EVIDENCE
(f)

(5) Date of decision: 4-30-2019

(6) Result Petition denied

(7) Was an evidentiary hearing held? Yes No

c. (1) Name of court: California Supreme Court

(2) Case number: S 256261

(3) Date filed (or if mailed, the date the petition was turned over to the prison authorities for mailing): 5-28-2019

(4) Grounds raised (list each):

(a) "NEWLY DISCOVERED EVIDENCE"
(b) of
(c) PROOF = INVALID STATUTE = ISSUE
(d) with a nexus
(e) CREDIBILITY EVIDENCE
(f) Counsel Ineffective AND Prosecutor Misconduct

SEE: NEXT PAGE

SEP 11 2019

Jorge Navarrete Clerk

S256261

Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re LAWONE WADE WILKINSON on Habeas Corpus.

The petition for writ of habeas corpus is denied. (See *In re Robbins* (1998) 18 Cal.4th 770, 780 [courts will not entertain habeas corpus claims that are untimely]; *In re Clark* (1993) 5 Cal.4th 750, 767-769 [courts will not entertain habeas corpus claims that are successive].) Individual claims are denied, as applicable. (See *People v. Duvall* (1995) 9 Cal.4th 464, 474 [a petition for writ of habeas corpus must include copies of reasonably available documentary evidence]; *In re Dixon* (1953) 41 Cal.2d 756, 759 [courts will not entertain habeas corpus claims that could have been, but were not, raised on appeal]; *In re Lindley* (1947) 29 Cal.2d 709, 723 [courts will not entertain habeas corpus claims that attack the sufficiency of the evidence].)

CANTIL-SAKAUYE

Chief Justice

(3) Did you raise this claim in a Petition for Review to the California Supreme Court? Yes No

(4) Did you raise this claim in a habeas petition to the California Supreme Court? Yes No

9. If any of the grounds listed in paragraph 8 were not previously presented to the California Supreme Court, state briefly which grounds were not presented, and give your reasons: ALL, PRESENTED

10. Have you previously filed any habeas petitions in any federal court with respect to this judgment of conviction?

Yes No

If so, give the following information for each such petition (*use additional pages, if necessary, and attach copies of the petitions and the rulings on the petitions if available*):

a. (1) Name of court: U.S.D.C Central District of California

(2) Case number: CV 07-2658-DOC-MAN

(3) Date filed (*or if mailed, the date the petition was turned over to the prison authorities for mailing*): April, 23, 2007

(4) Grounds raised (*list each*):

(a) Admitted 1101(b) evidence

(b) Attorney Ineffective

(c) Prosecutor Misconduct

(d) Judge Bias

(e) Equal Protection Violation

(f) _____

(5) Date of decision: October 20, 2010

(6) Result Petition Denied with Prejudice

(7) Was an evidentiary hearing held? Yes No

b. (1) Name of court: Ninth Circuit Court of Appeals

(2) Case number: 19-72574

(3) Date filed (*or if mailed, the date the petition was turned over to the prison authorities for mailing*): October 10, 2019

(4) Grounds raised (*list each*):

(a) APPLICATION for Second, successive habeas Petition

(b) NEW DISCOVERED EVIDENCE

(c) Applicable State Law VOIDS convictions

(d) Failed Burden of Proof = Invalid Statute

(e) Impeachment = Credibility evidence

(f) Counsel Ineffective

(5) Date of decision: NOVEMBER 20, 2019 SEE: NEXT PAGES

COPY

RECEIVED
MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS
PASADENA OFFICE

OCT 10 2019

Form 12. Application for Leave to File Second or Successive Petition
(New, 7/1/02) Under 28 U.S.C. § 2254 or Motion Under 28 U.S.C. § 2255

DATE INITIAL

PGS.
1 of 6

UNITED STATES COURT of APPEALS
for the NINTH CIRCUIT
95 Seventh Street
San Francisco, California 94103

Application for Leave to File Second or Successive Petition
Under 28 U.S.C. § 2254 or Motion Under 28 U.S.C. § 2255

19-72574

Docket Number

(to be provided by court)

Petitioner's name

LAWONE WILKINSON

Prisoner registration number

T-47584

Address

California Correction Institution

P.O. Box 1905, Tehachapi, Calif. 93581

Instructions - Read Carefully

- (1) This application, whether handwritten or typewritten, must be legible and signed by the petitioner under penalty of perjury. An original and five (5) copies must be provided to the Clerk of the Ninth Circuit. The application must comply with 9th Circuit Rule 22-3, which is attached to this form.
- (2) All questions must be answered concisely. Add separate sheets if necessary.
- (3) The petitioner **shall** serve a copy of this application and any attachments on respondent and must complete and file a proof of service with this application.
- (4) The petitioner **shall** attach to this application copies of the magistrate judge's report and recommendation and the district court's opinion in any prior federal habeas proceeding under 28 U.S.C. § 2254 or § 2255 or state why such documents are unavailable to petitioner.

You Must Answer the Following Questions:

- (1) What conviction(s) are you challenging?

"ENTIRE CONVICTIONS"

(2) In what court(s) were you convicted of these crime(s)?

Los Angeles Superior Court

Pgs
2 of 6

(3) What was the date of each of your conviction(s) and what is the length of each sentence?

Jan. 22, 2004 (TRIAL MONTH) 37 year Sentence

For questions (4) through (9), provide information separately for each of your previous §§ 2254 or 2255 proceedings. Use additional pages if necessary.

(4) With respect to **each** conviction and sentence, have you ever filed a petition or motion for habeas corpus relief in federal court under 28 U.S.C. § 2254 or § 2255?

Yes **G** No **G**

(a) In which federal district court did you file a petition or motion?

U.S.D.C. Central District of California

(b) What was the docket number? CV 07-2658-Doc(MAN)

(c) On what date did you file the petition/motion? April 23, 2007

(5) What grounds were raised in your previous habeas proceeding?

(list all grounds and issues previously raised in that petition/ motion)

Admitted 1101(b) evidence / Attorney Ineffective
Prosecutor Misconduct / Judge BIAS
Equal Protection Violation

(6) Did the district court hold an evidentiary hearing? Yes **G**

No **G**

(7) How did the district court rule on your petition/motion?

pgs
3 of 6

G District court **dismissed** petition/motion? If yes, on what grounds?

G District court **denied** petition/motion; Petition Denied with Prejudice

G District court **granted** relief;
if yes, on what claims and what was the relief?

(Attach copies of all reports and orders issued by the district court.)

ATTACHED EX.B

(8) On what date did the district court decide your petition/motion?

OCTOBER 20, 2010

(9) Did you file an appeal from that disposition? **Yes G** **No G**

(a) What was the docket number of your appeal? 10-56741

(b) How did the court of appeals decide your appeal?

Request for Certificate of Appealability DENIED

(10) State concisely each and every ground or issue you wish to raise in your current petition or motion for habeas relief. Summarize briefly the facts supporting each ground or issue.

FAILED BURDEN of PROOF = IMPEACHMENT and CREDIBILITY = COUNSEL INEFFECTIVE: Attached is the CURRENT petition wished to be RAISED, that CONTAINS the LAWS and FACTS SUPPORTING the GROUNDS and ISSUES!

(11) For each ground raised, was it raised in the state courts? If so, what did the state courts rule and when?

CASE #5256261
Petition denied; DATE: Sept. 11, 2019

(12) For each ground/issue raised, was this claim raised in any prior federal petition/motion? (list each ground separately)

Not raised in prior petition, as raised in "Attached."

CURRENT PETITION. SEE: Application at question 14 and pg. 6 → T.J. NOTICE

citing: Cooper Vs. Woodford, 358 F.3d (9th cir. 2004)

"California's LAWS, CONTROVERTS ENTIRE CASE" ⑫

(13) For each ground/issue raised, does this claim rely on a new rule of constitutional law? (list each ground separately and give case name and citation for each new rule of law)

pgs
4cf6

NO!

(14) For each ground/issue raised, does this claim rely on newly discovered evidence? What is the evidence and when did you discover it? Why has this newly discovered evidence not been previously available to you? (list each ground separately)

YES, NEWLY DISCOVERED "EVIDENCE"!

California's AUTO REPAIR LAWS. Discovered Oct. 15, 2018
at EX. 1-5, supporting the ATTACHED CURRENT PETITION!

"DILIGENCE and CAUSE"

After petitioner's direct appeal 7-29-2005
petitioner received trial transcripts;
fortunate for petitioner "REVEALED"
the ADDRESS of the "auto repair shop"
that caused petitioner's convictions
(T+T pg. 603)!

Petitioner the year 2005, wrote a complaint.
to the Bureau of Automotive Repair
(B.A.R) asking specific information
and questions as to the auto repair
shop (B.A.R's DUTY)!

Experiencing frustrations obtaining the
assistance from B.A.R, petitioner
continually wrote B.A.R letters
from 2005 through 2015; 2-3 and
sometimes 4-6 letters each year
(time consuming delay)! Sadly, 10-9-2015
B.A.R rejected petitioner's complaint,

unable to assist petitioner (see, B.A.R's letter, EX. 6 at attached current petition)!

Timely after in 2016 petitioner RE-Submitted the complaint to B.A.R's "oversight" the Department of Consumer Affairs (D.C.A) who filed the complaint=File # AR 2016 163, and FORWARDED back to B.A.R, who then Oct. 15, 2018 responded "with" petitioner's DISCOVERY→thats now NEW EVIDENCE a→CLEAR→LEGAL BASIS and "information" to→SUPPORT→FACTS (see, B.A.R's letter and information at EX. 5-1; the attached CURRENT petition in WHOLE)!

In sum, CLEAR DUE DILIGENCE and OBJECTIVE CAUSE; fore: California's AGENCY (B.A.R, D.C.A) has "prevented" the CLAIMS from being RAISED PROPERLY and FULLY DEVELOPED in the PRIOR PETITION, (citing: § 2244(b)(2)(B))! Also petitioner's attached CURRENT petition shows ACTUAL INNOCENCE by CLEAR CONVINCING EVIDENCE MISCARRIAGE of JUSTICE, (citing: § 2244(b)(2)(B))! NOTICE: the auto repair LAWS (statutes) CLEARLY CONFLICT + IMPACT=EXPOSE's already ESTABLISHED FACTS (crimes)!

Also this case invokes a "LIBERTY INTEREST"
"STIGMA CONVICTION"

SEE

In Re Winship, 397 U.S. 358, 364 (1970)

Murray Vs. Carrier, 477 U.S. 496 (1986)

Miller-El Vs. Cockrell, 537 U.S. 322-37 (2003)

(15) For each ground/issue raised, does the newly discovered evidence establish your innocence? YES!
How? "conviction VOID, under applicable STATE LAW"
See: Sawyer Vs. Whitley, 505 U.S. 333, 346-47 (1992)
Refer: Attached CURRENT Petition in WHOLE

(16) For each ground/issue raised, does the newly discovered evidence establish a federal constitutional error? Which provision of the Constitution was violated and how?
Yes! 5th, 6th, 8th and 14th, Amendments "DUE PROCESS"

(17) Provide any other basis for your application not previously stated.
Because District Court denied PRIOR petition with prejudice.
Requesting 9th Circuit Court take JURISDICTION of CURRENT petition FASTLY and JUSTLY.

Date: Sept. 30, 2019

Signature: Lawone Wilkinson

Proof of Service on Respondent MUST be Attached.

for ease

→ TAKE JUDICIAL NOTICE ←
of a serious "PROBLEM"

COMPARE: Report pgs. 67-68, with Petition pgs. 23-25

COMPARE: Report pgs. 46-49, with Petition pgs. 26-28

SEE

U.S Vs. Olano, 507 U.S. (1993) + U.S Vs. Recio, 371 F.3d (9th Cir 2004)

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

NOV 20 2019

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

LAWONE W. WILKINSON,

No. 19-72574

Applicant,

v.

ORDER

WILLIAM SULLIVAN,

Respondent.

Before: CANBY, TASHIMA, and CHRISTEN, Circuit Judges.

The application for authorization to file a second or successive 28 U.S.C. § 2254 habeas corpus petition in the district court is denied. The applicant has not made a prima facie showing under 28 U.S.C. § 2244(b)(2) that:

(A) the claim relies on a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

(B)(i) the factual predicate for the claim could not have been discovered previously through the exercise of due diligence; and (ii) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

Any pending motions are denied as moot.

No further filings will be entertained in this case.

DENIED.

(5) Date of decision: 11-20-2019

(6) Result Petition denied

(7) Was an evidentiary hearing held? Yes No

7. Did you file a petition for certiorari in the United States Supreme Court? Yes No

If yes, answer the following:

(1) Docket or case number (if you know): 12-7160

(2) Result: Pertaining to PRIOR 2254 petition!
denied

(3) Date of result (if you know): Jan. 14, 2013

(4) Citation to the case (if you know): _____

8. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than five grounds. Summarize briefly the facts supporting each ground. For example, if you are claiming ineffective assistance of counsel, you must state facts specifically setting forth what your attorney did or failed to do.

CAUTION: *Exhaustion Requirement:* In order to proceed in federal court, you must ordinarily first exhaust your state court remedies with respect to each ground on which you are requesting relief from the federal court. This means that, prior to seeking relief from the federal court, you first must present all of your grounds to the California Supreme Court.

a. Ground one: With "NEWLY DISCOVERED EVIDENCE" Petitioner's Convictions VIOLATE the CONSTITUTION DUE PROCESS.
(1) Supporting FACTS: Applicable State LAW "VOIDS CONVICTIONS"
ⒶⒶ FAILED BURDEN OF PROOF = INVALID STATUTE.
ⒷⒷ IMPEACHMENT = CREDIBILITY EVIDENCE.
Ⓒ COUNSEL INEFFECTIVE.
Ⓓ UNCONSTITUTIONAL EVIDENCE.

(2) Did you raise this claim on direct appeal to the California Court of Appeal? Yes No

(3) Did you raise this claim in a Petition for Review to the California Supreme Court? Yes No

(4) Did you raise this claim in a habeas petition to the California Supreme Court? Yes No

b. → Invoking 2244(b)(2)(B) Petitioner SHOWS ACTUAL INNOCENCE by CLEAR and CONVINCING EVIDENCE
→ FACTS: Therefore EXCUSING this Second, Successive, Abusive, or ANY State/Federal PROCEDURAL DEFAULT!

SEE: Sawyer V. Whitley, 505 U.S. (1992)

STATEMENT OF THE CASE

* TAKE JUDICIAL NOTICE *
OF THE SERIOUS CONSTITUTIONALITY

EASILY COMPARE:

EX.B's Report pgs. 67-68; with these Petition pgs. 23-25

EASILY COMPARE:

EX.B's Report pgs. 46-49; with these Petition pgs. 26-28

CLEARLY ABOVE, apparent on the face of the record, with → the enclosed "NEWLY DISCOVERED" LEGAL BASIS (statutes), FACTUAL BASIS (statutes), and INFORMATION to SUPPORT; has permitted the filing of FULLY DEVELOPED NEW CLAIMS (grounds).

Simply needed here is to APPLY California's MANDATED auto repair LAWS to an already established case; amounting to a CLEAR INJUSTICE!

In sum, the State of California has and is USING the word "MANDATED as a JOKE".

As the, SUPREME COURT of the UNITED STATES should NOT find that (above) to be FUNNY.

Per: RULE 20, 4(a)(b)

This is an exceptional circumstance that WARRANTS the exercise of the Court's POWER "requiring the State of California to answer an ORDER to SHOW CAUSE why this is NOT FUNNY"!

Petitioner has made a PRIMA FACIE showing under 28 U.S.C. § 2244(b)(2)(B)(i): "the factual predicate for the claims could not have been discovered previously through the exercise OF due diligence"

"DILIGENCE and CAUSE"

After petitioner's direct appeal 7-29-2005 petitioner received trial transcripts; fortunate for petitioner "REVEALED" the ADDRESS of the "auto repair shop" that caused petitioner's convictions (T+T pg. 603)!

Petitioner the year 2005, wrote a complaint to the Bureau of Automotive Repair (B.A.R) asking specific information and questions as to the auto repair shop (B.A.R's DUTY)!

Experiencing frustrations obtaining the assistance from B.A.R, petitioner continually wrote B.A.R letters from 2005 through 2015; 2-3 and sometimes 4-6 letters each year (time consuming delay)! Sadly, 10-9-2015 B.A.R rejected petitioner's complaint,

unable to assist petitioner (see, B.A.R's letter, EX.6 at attached current petition)!

Timely after in 2016 petitioner RE-submitted the complaint to B.A.R's "oversight" the Department of Consumer Affairs (D.C.A) who filed the complaint=File # AR 2016 163, and FORWARDED back to B.A.R, who then Oct. 15, 2018 responded "with" petitioner's DISCOVERY → that's now NEW EVIDENCE → CLEAR → LEGAL BASIS and "information" to → SUPPORT → FACTS (see, B.A.R's letter and information at EX.5-1; the attached CURRENT petition in WHOLE)!

In sum, CLEAR DUE DILIGENCE and OBJECTIVE CAUSE; fore: California's AGENCY (B.A.R, D.C.A) has "prevented" the CLAIMS from being RAISED PROPERLY and FULLY DEVELOPED in the PRIOR PETITION, (citing: § 2244(b)(2)(B))! Also petitioner's extraordinary → petition shows ACTUAL INNOCENCE by CLEAR CONVINCING EVIDENCE MISCARRIAGE of JUSTICE, (citing: § 2244(b)(2)(B))! NOTICE: the auto repair LAWS (statutes) CLEARLY CONFLICT + IMPACT = EXPOSE's already ESTABLISHED FACTS (crimes)!

Petitioner has also made a PRIMA FACIE showing, under 28 U.S.C. § 2244(b)(2)(B)(ii), "the LAWS and FACTS underlying the claims prove viewed in light → of the NEW EVIDENCE as a whole is sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found petitioner guilty of the underlying offenses."

SEE: Sawyer v. Whitley, 505 U.S. (1992)

(to obtain relief on a second, successive or abusive claim petitioner has shown that convictions are VOID under applicable state law)!

Petitioner has **FIT** the standard this → SUPREME COURT reserves for claims that challenge the → DEATH SENTENCE!

SEE ENCLOSED BELOW
this CONVICTION is a SHAM.

LEGAL PRINCIPLES APPLY

The Automotive Repair Act, is a comprehensive statutory scheme regulating auto repair shops. The Automotive Repair Act was enacted in 1971, in response to widespread "fraudulent practices in the automotive repair industry." Some of its purposes is to "foster fair dealings and eliminate misunderstandings with transactions involving automotive repairs" (Dept. Consumer Affairs Bill Analysis of Sen. Bill No. 51, as amended May 10, 1971).

The Automotive Repair Act created within the Department of Consumer Affairs the Bureau of Automotive Repair (B.A.R.)! Together as a whole they establish Auto Repair Shop LAWs, that APPLY to this case!

This case revolved around a business dispute with business owners Manuel and Ruben Monterroso who are brothers that co-owned an auto repair shop. The dispute was over auto repairs performed on a van that belong to petitioner's co-defendant (LAMB). (See, State Appeals Court decision pgs. 2-5 at EX. A)

For ease, the Monterroso brothers will be referred to as an AUTO REPAIR SHOP!

It is the auto repair shop's responsibility to comply with the Automotive Repair ACT, which mandates auto repair shops follow Auto Repair LAWs and Related LAWs.

When a dispute arises it is the auto repair shop who must demonstrate that they COMPLIED with the LAW!

With all the LEGAL minds at petitioner's trial "NO" one "KNEW" to VERIFY this Auto Repair Shop's (LAWs) CREDENTIALS! (BUT SHOULD HAVE KNOWN)

Ⓐ FAILED BURDEN of PROOF = INVALID STATUTE

Clearly, the auto repair shop was operating a business (Appeals Court Decision, pgs. 2-5 at EX.A). California's Bureau of Automotive Repair (B.A.R.) requires ALL auto repair shops to REGISTER with B.A.R (B.A.R. LAW, 9884.6, at EX.1). FOR the year 2003 the incident, the auto repair shop was NOT registered (B.A.R's letter at EX.5).

Clearly, the prosecutor had an "obligation to prove" the auto repair shop was in compliance with B.A.R's LAWS. With the auto repair shop "NOT" being registered, they FORFEITED their POSSESSION and PROPERTY INTERESTS for parts and labor performed, the repairs. Because B.A.R. LAW- 9884.16, at EX.3;

Clearly, expresses the auto repair shop had "NO → BENEFIT of ANY LIEN" (meaning, NO legal right to POSSESS the van in this case) "because of parts and labor, the repairs, also NO → RIGHT to a LEGAL proceeding".

(Amounting to a FAILED, BURDEN of PROOF)

Clearly, the prosecutor's ENTIRE case depended on a ROBBERY (Appeals Court Decision, pgs. 15-24 at EX.A). CLEARLY! (23)

Upon NO theory of the prosecutor's case can petitioner be charged with robbery. The Statute's ELEMENT #1: a victim has to have POSSESSION of/and PROPERTY; for the crime of ROBBERY to be COMMITTED (citing, Penal Code Section 211). Clearly, B.A.R's LAW-9884.16; is an EFFECTIVE PUNISHMENT that forces this UNregistered auto repair shop to FORFEIT their POSSESSION and PROPERTY INTERESTS. In sum, B.A.R's LAW-9884.16, at EX. 3 INVALIDATES the Statute's element #1 for the crime of ROBBERY. A NON-robbery has an UNCONSTITUTION INFECTION for the case in WHOLE.

⑧ IMPEACHMENT = CREDIBILITY EVIDENCE

Clearly, there is also a "NEXUS that SERIOUSLY UNDERMINES the prosecutor's ENTIRE CREDIBILITY CASE." At trial it never came into question the auto repair shop's compliance with B.A.R's registration laws. **NOTE:** The Monterrosos are brothers that CO-OWNED the auto repair shop. Their responsibility = credibility is a shared cause.

Clearly, the auto repair shop not being registered the year 2003, the incident (B.A.R's letter at EX.5) is also a CRIME, holding JAIL time and MONEY fine (B.A.R, LAW-9889.20 at EX.4 and 9884.6 at EX.1). At trial the auto repair shop gave INCRIMINATING TESTIMONY that related directly towards the case, (IMPEACHMENT EVIDENCE).

Clearly, the auto repair shop KNEW of their responsibility to comply with B.A.R's LAWS because the auto repair shop registered with B.A.R, Jan. 2004 → DURING the → TRIAL PROCESS (B.A.R's registration letter at EX.6 and B.A.R's timelimit registration LAW, 9884.3 at EX.1).

Clearly, at trial had the auto repair shop been faced with the questions of registration, it appears the auto repair shop's answer was STAGED too DECEIVE, (A "TACT NOT WISE"?).

Clearly, had the JURY KNOWN the auto repair shop's business TRICK was too running a CRIMINAL BUSINESS and too DECEIVE EXPLICITLY for the TRIAL. Raises "SERIOUS QUESTIONS" → EFFECTING the JUDGEMENT of the JURY; CLEARLY NOT a FAIR TRIAL.

Ⓐ FAILED BURDEN of PROOF = INVALID STATUTE

"Sadly"! Once again, this case was a business dispute transformed into a ROBBERY and not a typical robbery. The auto repair shop was operating a business (Appeal Court Decision pgs. 2-5 at EX. 1) and California's Bureau of Automotive Repair (B.A.R.) requires ALL auto repair shops to obtain AUTHORIZATION from the "CUSTOMER" before work is performed (B.A.R. LAW, 9884.9 at EX. 2). B.A.R. also requires auto repair shops to "COMPLY" with related LAWS such as California's "CASE LAW" that requires B.A.R.'s Law 9884.9 "CUSTOMER" to be the automobile's "OWNER".

Clearly, the auto repair shop violated the law because the authorization form was prepared with petitioner; who is not the OWNER of the VAN (Appeal Court Decision pgs. 2-5 at EX. A).

Clearly, petitioner CAN NOT be charged with robbery, because B.A.R.'s Law, 9884.9. Clearly expresses the auto repair shop violating authorization "SHALL NOT CHARGE for labor and parts" (meaning, FORFEITS the auto repairs). Clearly B.A.R.'s Law, 9884.9 at EX. 2; INVALIDATES the ELEMENTS of ROBBERY amounting to a FAILED BURDEN of PROOF. REFER to

Christopher Vasquez

SOLO 1 V. Kustoms Inc.

No. B280152
California Court of Appeals
Second Appellate
Division Eight
(9-11-18)

Also see EX. 5, questions 1 and 2, where California's case law "APPLIES" to this case; under B.A.R's law, 9884.9!

Clearly, this authorization (CONTRACT) issue relates to the registration issue, because B.A.R's law, 9884.16 at EX.3 Clearly EXPRESSES: "the auto repair shop NOT being → registered was 'PRECLUDED' from a LEGAL PROCEEDING to RECOVER PROPERTY for a CONTRACT (auto repairs).
* * * CLEAR; MISCARRIAGE of JUSTICE * * *

The auto repair shop has "DUPED" the criminal justice system = LEGAL PROCEEDING. As a gateway to = RECOVER PROPERTY. Petitioner is paying \$380.00 restitution order because of labor and parts the CONTRACT. Petitioner is serving 37 year prison sentence because of auto repairs → the CONTRACT. CLEARLY, CONSTITUTIONALLY FORBIDDEN! (because ANY CONTRACT is DEEMED VOID: LAW, 9884.16 at EX.3)

⑧ IMPEACHMENT = CREDIBILITY EVIDENCE

"Sadly"! Once again, clearly, there is a "NEXUS" that SERIOUSLY UNDERMINES the prosecutor's ENTIRE CREDIBILITY CASE!" (27)

At trial it did come into question the auto repair shop's compliance with B.A.R's 9884.9 authorization law (Appeal Court Decision pg. 5, at EX. A). Clearly, NOT known to the jury was the FACT that preparing the authorization form with petitioner → who was not the OWNER of the VAN; the auto repair shop was COMMITTING a CRIME, holding JAIL time and MONEY fine (B.A.R, Law 9889.20 at EX. 4).

Clearly, had the ~~jury~~ jury known the auto repair shop's INCRIMINATING TESTIMONY (impeachment evidence) was not to abide by the LAW is EQUIVALENT to the PROVERBIAL → PHRASE: the JURY's SMOKING GUN; KILLING the auto repair shop's credibility.

CLEARLY, because → petitioner was CONVICTED with the JURY BELIEVING the auto repair shop COMPLIED (LAWFULLY) with authorization laws; IS CLEARLY a CONVICTION obtained with the USE OF TAINTED TESTIMONY " " .

CONSTITUTIONALLY FORBIDDEN!
TAKE NOTICE: Prosecutor "KNEW" co-defendant Lamb (owner) was to prepare AUTHORIZATION, at T+T pg. 1221; And "COVERED" it up, at T+T pg. 1519 telling JURY: "ANYONE can prepare AUTHORIZATION"!

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Clearly, petitioner "SIGNIFICANTLY" demonstrates with NEW EVIDENCE that these mandated state auto repair LAWS, are so "SUFFICIENTLY" compelling to meet the very difficult standard actual innocence by clear and convincing evidence.

These mandated state auto repair LAWS were NOT obtained and presented at trial by defense counsel, and was necessarily so "VITAL" to the defense that it certainly should have been obtained and presented at trial, a competent defense counsel would have done so!

Clearly, "DISTURBING" is the FACT, the state established the auto repair LAWS to protect from "fraudulent" auto repair shops (what happen with this case; Your HONOR?). All the "FULGENT LEGAL" minds at petitioner's trial and "NO one KNEW" that auto repair shops have LAWS; and too "VERIFY" the auto repair shop's "CREDENTIALS"

In sum, this is a CLEAR CASE of a MISCARRIAGE of JUSTICE; →

that establishes petitioner's counsel, who was counsel → through the entire case process; preliminary hearing Sept. 2003, jury trial Jan. 2004 and sentencing Apr. 2004. Clearly, FAILED to investigate the auto repair LAWS, that the auto repair shop was mandated=bound to COMPLY, and their CREDENTIALS of proof. Fore this case is a business dispute, transformed into a criminal case.

Clearly, FAILURE to effectively present these clear exonerating auto repair LAWS and factual clear exonerating EVIDENCE to the trial-case, is NOT and NEVER a respectable=reasonable, STRATEGIC or TACTICAL choice; ONLY CLEAR NEGLECT that amounts to AMPLY SUFFICIENT PROOF of ineffective Assistance of Counsel.

The above → is APPLICABLE to Appeal's Counsel; fore ALL enclosed CLAIMS (grounds) are LEGAL ISSUES (known of or should have known).

④

UNCONSTITUTIONAL UNCHARGED CRIME 1101(b) EVIDENCE (Road Rage)

Refer to the Appeals Court's factual findings (pgs. 6-13 at EX. A).

At Trial

(Petitioner was wronged)

After the jury heard the evidence for the main case at hand, the jury then heard this highly prejudicial 1101(b) evidence (Road Rage) that involved an unknown person with a GUN!

The road rage incident was admitted under 1101(b) evidence as too KNOWLEDGE (see trial transcripts pgs. 6-9, 978).

The record CLEARLY reflects the prosecutor introduce the road rage incident to prove petitioner's GUN POSSESSION, from one day (road rage) to the next day (main case); and that co-defendant Lamb had KNOWLEDGE. The prosecutor's theory was a hope, that Freeman the victim of the road rage incident would identify

petitioner as being the gun-man who brandished a gun (see T-T pgs. 6-9)

The vexing hitch is, the prosecutor's theory FAILED when Freeman testified, because there was NO showing petitioner was involved in the road rage incident. Thereafter for the prosecutor to use the road rage incident, to prove petitioner's GUN-possession and that co-defendant Lamb had KNOWLEDGE becomes VOID and INADMISSIBLE (see favorable to petitioner, Appeals Court's findings pgs. 11 at EX. A)

CLEAR and CONVINCING evidence that admission of the road rage incident pertaining to KNOWLEDGE was highly prejudicial and unconstitutional in petitioner's trial (CLEARLY EXPLAINED below)!

Petitioner's contention is the prosecutor's road rage incident closing argument allowed the jurors to draw impermissible inferences and for the prosecutor to INDUCE the jurors through argument that the road rage incident was admissible to obtain a conviction is PROSECUTOR'S MISCONDUCT: "CLEARLY obtaining a conviction with the USE of FALSE EVIDENCE KNOWN to be FALSE"!

The prosecutor's argument went as follows:

"When you're analyzing whether co-defendant Lamb is guilty of the attempted murder and the assault with a firearm, the question is: when Wilkinson committed the robbery, is it a natural and probable consequence that somebody is going to get shot; that Wilkinson is going to try to kill somebody?

That's common sense ladies and gentlemen. Especially when you draw the INFERENCE that co-defendant Lamb 'KNEW' that there was a 'GUN' in Wilkinson's JACKET when they first went to the crime scene. How can you draw this INFERENCE? The way that you can draw it is through the testimony that you may have wondered; "why am I hearing this testimony?" I'm going to explain that now-- the testimony of Freeman the road rage incident from the day before." (see concrete facts, trial transcript page 1529-)

Under prosecutor misconduct:
a prosecutor "can not" argue FACTS
"Known" to the prosecutor "NOT" to
be in evidence! Particularly considering
the circumstances of this case at hand.
The prosecutor's argument is a Foul Blow
long held improper, because the prosecutor
specifically USED the GUN from the road
rage incident "FREEMAN'S TESTIMONY" to
CONVINCE the jurors that petitioner was
in possession of a "GUN" inside petitioner's
"JACKET" to commit the crimes charged
in the main case! Also, allowing the jurors
to draw an inference that petitioner
was in fact the unknown gun-man in the
road rage incident! How else would the
gun be inside petitioner's Jacket from
one day (road rage) to the next day
(main case)? (T+T pg. 1529 [REDACTED])

CLEARLY, this KIND of evidence which
tends to prove guilt is highly prejudicial
and unconstitutional.

On Appeal

(Petitioner was again wronged)

Refer to the Appeal Court's factual
findings pages 6-13 at EXHIBIT A;

To where, the appeal court's factual findings contains critical OMISSIONS of relevant facts. The appeal court made reference to the prosecutor's argument, pertaining to petitioners contention. CLEAR and CONVINCING evidence shows the appeal court OMITTED relevant facts from the prosecutor's argument. (see BELOW).

COMPARE: the appeal court's reference of the prosecutor's argument; must see EXHIBIT A pg. 8

COMPARED: with excerpts from the trial transcripts of the prosecutor's argument; must see petition Pg. 33, T+T. 1529-

Clearly, there in its apparent on the face of the record the prosecutor's arguments ARE NOT THE SAME! The appeal court has OMITTED relevant FACTS, specifically T+T page 1529 the most critical page of the prosecutor's argument (see Petition at pgs. 34-36)!

With all due respect, the appeal court's decision, at EX. A page 12, addressing the question of prejudice as to petitioner is an UNREASONABLE DETERMINATION of the FACTS in LIGHT of the evidence presented.

When considering T+T page 1529 of the prosecutor's agonizing argument, it's CLEAR and CONVINCING the erroneous admission of the road rage incident was highly prejudicial and unconstitutional as to petitioner. As noted Freeman identified Lamb as the driver of the van, the gun-man was unknown. The jurors were not allowed to be directed to →INFER← that petitioner was the gun-man during the road rage incident. Even more prejudicial the road rage amounted to prohibited use to prove petitioner's GUN POSSESSION and PROPENSITY to commit the charge crimes in the main case.

Petitioner testified not having a GUN (see Appeal Court's defense case at EX. A pages 4-5). This CASE came down solely to credibility! There is a reasonable probability the outcome would have been more FAVORABLE without the road rage incident USED to put a GUN inside petitioner's JACKET!

TAKE NOTICE: Co-defendant Lamb and petitioner were given the same limiting instructions as to the 1101(b) evidence (road rage). Yet, when facing prejudice as for co-defendant Lamb, the appeals court reasoned the instructions were NULL; using the language of the instructions in an **ERROR - FORM!** STATING: "the jury used the road rage evidence as bad character and propensity to commit the charged crimes" (see Appeal Court's findings, pgs 7 and 11 at EX.A)

Here, with petitioner's Issue of Clear and Convincing evidence of prejudice. It clearly can not be presumed the jury followed the instructions as to petitioner. As the Appeal Court reasoned: "the road rage had NO bearing on petitioner's gun possession or propensity to use a gun" in sum "the jury found petitioner to be co-defendant Lamb's GUN-TOTING COHORT" (see **FAVORABLE**, Appeal Court's findings pg 11 at EX.A)

TAKE PLAIN ERROR NOTICE:

The Appeals Court KNOWING in its FINDINGS pg. 7 at EX.A; the road rage was ADMITTED for KNOWLEDGE! But for some UNKNOWN reason EXCLUDED ADJUDICATING KNOWLEDGE!

ALSO:

On Fed. Habeas Corpus petitioner made a 2254(d)(2) - (e)(1) showing (the enclosed issue)! The District Court's Report at EX. B, pg. 32 cited the correct page # - T&T 1529 of the prosecutor's argument; but for SOME UNKNOWN REASON also OMITTED the ENTIRE WORDS! And reasoned: "the prosecutor's argument did not ask the jurors to INFER anything about petitioner." But there and here the prosecutor CLEARLY USED the WORD "INFER" TWICE; when using the ROAD RAGE ACT to put a GUN into PETITIONER'S JACKET (see pet. pgs. 33-36).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Lawone Wilbinson

Date: 1-8-2020

REASONS FOR GRANTING THE PETITION

Per; SUPREME COURT RULE 20, 4(a)(b): "Petition" ²²⁵⁴

This is a CLEAR INJUSTICE! What has happen here is the state of California established MANDATED auto repair LAWS that should have PROTECTED petitioner against this UNLAWFUL auto repair shop!

The auto repair shop was operating an "ILLEGAL" business. And when faced with a business dispute, has received the benefits of a "LEGAL" business!

The prosecutor CAN NOT give the auto repair shop "FORBIDDEN BENEFITS" in order to meet the \rightarrow BURDEN of PROOF! With the auto repair shop receiving "FORBIDDEN BENEFITS" this has CAUSED the CONVICTION of one TRULY INNOCENT! And CAN NOT use FALSE EVIDENCE!

Petitioner has exhausted State Court as well as Federal Court REMEDIES and RELIEF cannot be OBTAINED in any other form or court: see Petition pgs. 8 and 10-16.

Petitioner's CASE INVOVES the "LIBERTY INTEREST" "STIGMA of CONVICTION" and "CONCRETE INNOCENCE"

GUIDE / CASES

In Re Winship, 397 U.S (1970); Sullivan V. La., 508 U.S (1993)
Murray V. Carrier, 477 U.S (1986); McCleskey V. Zant, 499 U.S (1991)

The petition as WHOLE warrents the EXERCISE of this COURT'S DISCRETIONARY RITE POWER. Requiring the respondent to ANSWER an \rightarrow ORDER from \rightarrow the COURT \rightarrow to SHOW CAUSE why the petition should not be GRANTED \rightarrow In LIGHT of this CLEAR: Miscarriage of Justice.



Prayer for Relief

The history of habeas corpus; RARE is the case where a petitioner submits a petition with such → CLEAR EGREGIOUS INJUSTICE contributing to a → CLEAR MISCARRIAGE of JUSTICE; RARE is the case where a petitioner can meet the → HIGHEST BURDEN CLEAR CONVINCING EVIDENCE; as a pro per prisoner I have PROVED my INNOCENCE and I → LAWONE WILKINSON have become that "RARE" case!

The auto repair shop ACTED with MALICE, a "criminal business" with "fraudulent practices" ► "witnesses who sought to DECEIVE" Committing CRIMES, taken in → context the case in WHOLE; NOT KNOWN to the JURY:

CRIME; noncompliance with registration.

CRIME; violation of authorization..

CRIME; criminal threats...

CRIME; brandishing displaying firearms....

CRIME; in this case the auto repair shop with NO LEGAL right to possess the VAN and refusing to release the VAN is, UNLAWFUL POSSESSION....

(Pet. pgs. 22-28 and EX.A pgs. 15-18, 23)

Petitioner Respectfully Prays the COURT
GRANT Discharge → Release from Custody) Lawone
Wilkinson 40