

19-7474

No. \_\_\_\_\_

ORIGINAL

IN THE  
SUPREME COURT OF THE UNITED STATES

\_\_\_\_\_

Rodney BANKS

(Your Name)

— PETITIONER

vs.

Sean D. Coen et al

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

CALIFORNIA SUPREME COURT

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

PETITION FOR WRIT OF CERTIORARI

Rodney BANKS

(Your Name)

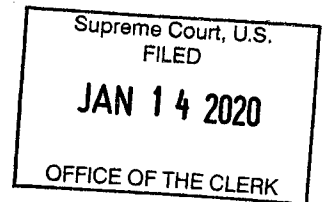
P.O. Box 5101

(Address)

Delano, CA 93216

(City, State, Zip Code)

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



QUESTION(S) PRESENTED

I AM REQUESTING FOR REVIEW THAT  
ARRESTING OFFICER DID NOT READ ME  
MY MIRANDA RIGHTS. AND THE JURY GOT THE  
WRONG EVIDENCE FOR DELIBERATION.

## 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:

LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE ATTN: HABEAS CORPUS  
LITIGATION TEAM

GRIMES

STRATTON, J.

WILEY, J.

CANTIL-SAKAUYE

## TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED .....	3
STATEMENT OF THE CASE .....	4
REASONS FOR GRANTING THE WRIT .....	5
CONCLUSION.....	6

## INDEX TO APPENDICES

APPENDIX A *Decision of STATE TRIAL COURT*

APPENDIX B *Decision of STATE COURT OF APPEALS*

APPENDIX C *Decision of STATE SUPREME COURT*

APPENDIX D

APPENDIX E

APPENDIX F

## TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
MIRANDA V. ARIZONA, 384 U.S. 436 (1966)	3 of 6
CALIFORNIA V. HOJARI, D. 499 U.S. 621, 626 (1991)	3 of 6
People v. TELLO, 15 CAL. 4 <sup>th</sup> 264, 199	5 of 6
People v. RUTHFORD (1975) 14 CAL. 3d 399, 405-406 121 CAL. RPTR. 2d, 534 P.2d 1341	6 of 6

## STATUTES AND RULES

FIFTH Amendment	3 of 6
FOURTEENTH Amendment	3 of 6
PLAIN ERROR (Rule)	4 of 6

## OTHER

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

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

OPINIONS BELOW

☐ For cases from **federal courts**:

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

- ☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

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

- ☐ reported at \_\_\_\_\_; 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 APPEAL 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.

## JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was \_\_\_\_\_.

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

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

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

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

☒ For cases from **state courts**:

The date on which the highest state court decided my case was 10-30-2019  
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

FORMAL ARREST OR THE DEPRIVATION OF FREEDOM TO AN EXTENT ASSOCIATED WITH FORMAL ARREST MY MIRANDA RIGHTS HAS BEEN VIOLATED UNDER THE FIFTH AND FOURTEENTH AMENDMENT MIRANDA V. ARIZONA, 384 U.S. 436 (1966); CALIFORNIA V. HODARI, 3, 499 U.S. 621, 626 (1991) GRANT EVIDENTIARY HEARING. PAGE: 3 OF 6 OF PETITION.

INCIDENT REPORT WAS USED AS EVIDENCE FUNDAMENTAL RIGHT OF THE ACCUSED A FAIR TRIAL THAT WAS NOT OBJECTED TO AT THE TIME IT OCCURRED AND WENT UNCORRECTED BY THE TRIAL COURT PLAIN ERROR (RULE) GRANT EVIDENTIARY HEARING. PAGE: 4 OF 6 OF PETITION.

I WAS UNAWARE THAT MY MIRANDA RIGHTS WAS NOT GIVEN SO I BRING THIS CLAIM ON HABEAS CORPUS NEWLY DISCOVERED EVIDENCE RATHER THAN DIRECT APPEAL SEE PEOPLE V. TELLO, 15 CAL. 4<sup>TH</sup> 264, 199. PAGE: 5 OF 6 OF PETITION.

I CONTINUE TO RESEARCH AND MAKE SURE THAT I EXHAUST ALL ISSUE THEN I NOTICE MY MIRANDA RIGHT WAS NOT GIVEN SO I AM REQUESTING AN EVIDENTIARY HEARING IN THIS PETITION FUNDAMENTAL RIGHTS REQUIRES NO LESS. PEOPLE V. RUTHFORD, (1975) 14 CAL.3D 399, 405-406 121 CAL. RPTR, 261, 534 P.2D 1341. PAGE: 6 OF 6 OF PETITION.



### STATEMENT OF THE CASE

MIRANDA Right WAS NOT GIVEN AND THE DISTRICT ATTORNEY STATED DURING TRIAL PEOPLE #11 HE DID NOT WANT INCIDENT REPORT AS EVIDENCE BUT PEOPLE #12 RECEIVE INTO EVIDENCE THE PROTECTIVE ORDER MASTER INDEX SHOW PEOPLE #11 WAS GIVEN INTO EVIDENCE THE INCIDENT REPORT WHICH THE JURY HAD DURING DELIBERATION.

LOWER COURTS PROCEEDING: THE WRIT OF HABEAS CORPUS IS RESERVED FOR ERRORS OF A FUNDAMENTAL JURISDICTIONAL OR CONSTITUTIONAL TYPE, RATHER THAN ERRONEOUS EVIDENTIARY OR PROCEDURAL RULINGS. NO GROUND ALLEGED HERE IS OF A TYPE COGNIZABLE ON HABEAS CORPUS. ASSUMING THE FACTS ALLEGED IN THE PETITION ARE TRUE, PETITIONER FAILS TO ALLEGE ESTABLISHING A PRIMA FACIE CASE FOR HABEAS RELIEF. A HABEAS PETITIONER MUST ALLEGE WITH PARTICULARITY THE FACTS UPON WHICH RELIEF IS SOUGHT AND INCLUDE COPIES OF REASONABLY AVAILABLE DOCUMENTS SUPPORTING THE CLAIM. VAGUE OR CONCLUSORY ALLEGATIONS MADE WITHOUT ANY EXPLANATION OF THE BASIS FOR THE ALLEGATIONS DO NOT WARRANT RELIEF. THE PETITION RAISES ISSUES COULD HAVE BEEN RAISED ON APPEAL, BUT WERE NOT, AND PETITIONER HAS FAILED TO ALLEGE FACTS ESTABLISHING AN EXCEPTION TO THE RULE BARRING HABEAS CONSIDERATION OF CLAIMS THAT COULD HAVE BEEN RAISED ON APPEAL.

### REASONS FOR GRANTING THE PETITION

MIRANDA RIGHTS WAS NOT READ TO PETITIONER AND TRIAL JUDGE GRANTED DISTRICT ATTORNEY REQUEST NOT TO ALLOW PEOPLE # 11 INTO EVIDENCE THE INCIDENT REPORT WHICH COURTS GAVE TO THE JURY DURING DELIBERATION (PLAIN ERROR RULE) WHEN THERE'S A CONFLICT BETWEEN STATE, COURT OF APPEAL, AND CALIFORNIA SUPREME COURT THE CONSTITUTION AND A LAW PASSED BY CONGRESS THE CONSTITUTION MUST ALWAYS TAKE PRECEDENCE. REASONS FOR GRANTING PETITION FUNDAMENTAL RIGHT TO ENFORCE AND PRESERVE THE RIGHTS GUARANTEED BY THE FEDERAL AND STATE CONSTITUTIONS.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Rodney Banks

Date: December 24, 2019