

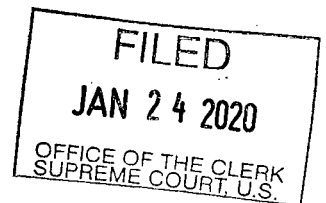
19-7489

No. _____

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES



PAUL EDWARD DURAN PETITIONER, In Pro Per
(Your Name)

vs.

MATTHEW CATE — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeal 9th Circuit case # 19-55304
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Attorney In Pro Persona,

PAUL EDWARD DURAN # AT 6464
(Your Name)

Corcoran State Prison California
(Address)

P.O. Box 3461 Corcoran CA 93212
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

1) Whether the Circumstances regarding the Fourth Amendment Exclusionary Rule § 20.08, that is revolved around the obtaining, holding and exclusion of evidence in the Criminal Conviction Case # BA-415-427, consist of the future empirical evidence and or data that is required to undermine the Courts assumptions made in [Illinois v. Krull, 480 U.S., 353-354 (1987)] and [United States v. Leon, 468 U.S. at 916 n. 14 at 927-928 (1984)], in order to revise the U.S. Supreme Courts conclusions accordingly?

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:

#1) MATTHEW CATE, former Secretary of Corrections for the State of California, "also current S of C, Ralph Diaz"

#2) TAYLOR NGUYEN, D.A.G., Attorney General for the State of California.

#3) Attorney General for the United States of America also Solicitor General of the U.S.A.

#4) Warden Chief Deputy for the California State Prison Corcoran: Ken Clark

#5) Governor of California: Gavin Newsom.

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APPENDIX B Application For "COA" Filed in U.S. Court, of Appeals For The Ninth cir, Case# 19-55-304 pending.

APPENDIX C Petition For Review Filed in California Supreme Court.

APPENDIX D OPINION From California Court of Appeals, and pro se Opening Brief with exhibits A-B

APPENDIX E "Order" Denying Petition For writ of habeas Corpus that was filed raising New Contentions not raised on direct Appeal.

Appendix F U.S. Dist. Ct Notice of Electronic Filings of Habeas Corpus proceeding in Case 2:16 cv 02666 -A G-FFM

Appendix - G

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Illinois V. Krull 480 U.S. 353-354 (1987). p#

United States V. Leon 468 U.S. at 916 n. 14 at 927-928 (1984). page#

United States V. Ceccolini; 435 U.S. 268; 98 S. Ct. 1054; 55 L. Ed. 2d 268; (1978) p.#

Wong Sun V. United States, 371 U.S. 471, 485 (1963)

STATUTES AND RULES

Exclusionary Rule § 20.08

U.S.S.C. Rules # 11

28 U.S.C. § 2101(e).

Article III of the U.S.C.

28 U.S.C. § 1251

U.S. Const.. Amdt. 11

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 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 See Appendix (B); 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 California 2nd dist Appellate 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 _____

☒ 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

United States Supreme Court Rule # 11

[28 U.S.C. § 2101(e).]

* and because the controversy at hand in the instant case reflects back to this court's original jurisdiction.

[] For cases from **state courts**:

The date on which the highest state court decided my case was N/A.
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

U.S.S.C. Rules # 11 also [28 U.S.C. § 2101(e).]

*also its invoked under the court's original jurisdiction under Article III of the U.S.C
see also 28 U.S.C. § 1251 and U.S. Const., Amdt. 11

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

#1) Fourth Amendment Violation of the United States Constitution.

#2) Sixth Amendment violation of the United States Constitution.

#3) Fourteenth Amendment Violation of the United States Constitution.

Statutory Provisions

#1) Exclusionary Rule § 20.08

Statement of the Case

On July 21, 2013 Appellant was charged with felony counts pertaining to case #BA415427 three days post of the arrest appellant was released on a district attorney reject on July 24, 2013 pending further investigation (RT-17 647 648) on November 19, 2013 appellant was rearrested and extradited from New Mexico to Los Angeles, California, On December 4, 2013 Appellant was arraigned for the first time in magistraight court. On December 18, 2013 Appellant attended a preliminary examination hearing represented by state appointed counsel attorney Ester Dunn, ultimately the case was bound over for district court by the magistraight court. On January 2 2014 Appellant was arraigned in the district level (CT 40,44). On March 6, 2014 Appellant then exercised his proper rights and was granted his right to represent himself in Propria Persona (CT 52,56) (RT A1,A13). On March 18, 2014 Appellant filed a motion to exclude a six pack line up involved with case #BA415427 and this motion was granted in Appellant's favor (2RT,2-15 & CT 71) On the same day March 18, 2014 Appellant filed two 995 motions to dismiss the case due to the six pack exclusion (2RT 15-21 & CT 48,69). On March 19, 2014 Appellant filed a 1385 motion to dismiss the case and moved the court to take judicial notice of a constitutional violation before voir dire took place. (CT 77 & 2 RT 302-303) On March 20, 2014 appellant filed a 1538.5 motion to supress the bench warrant pertaining to appellant's case (CT 81 & 2 RT 603-604) The motion was denied and the evidence was left otherwise unobjectionable, appellant was therefor subjected to going forward with the jury trial and was found guilty on all counts

one carjacking, one attempted carjacking, and one attempted robbery (CT 118,120-124,125) on March 20,2014 ADA Sumgraph called Ramon Orozoco, a prosecution witness and he testified on the stand that if appellant did not have tattoos on his stomach~~for~~ chest area then the appellant was not the man who had assaulted him and tried to take his car keys (RT 699). Appellant then took off his shirt and Honorable Katherine Mader stated for the record that the appellant had no tattoos on the area in question. (RT 700). On April 16,2014 a court trial was held concerning supplemental information whether appellant suffered a strike prior conviction it was then concluded and the trial court found that the appellant had suffered the prior strike (CT 159,160). On April 16,2014 Appellant filed numerous motions a motion for arrest of judgement (CT 137) another arrest of judgement (CT 148), an addendum to the arrest of judgement (CT 153), a motion to produce (CT 156) On May 2,2014 a motion for a new trial was filed (CT 161), a motion for a third arrest of judgement was filed (CT192) On May 2,2014 Appellant filed an addendum to the motion for a new trial (CT 218). On May 2,2014 Appellant filed a subpoena to obtain information that was being With held by the district attorney and the subpoena was quashed (CT 216 & Exhibit "B") On May 21,2014 a sentencing hearing was held (CT 220,227) in the sentencing hearing the motion for the new trial was denied appellant objected to the denial (RT 1506 & CT 161,218) on the grounds that it was never aloud to be herd in open court, appellant was then sentanced to a total of 21 years to this day appellant has not recived the proper presentance confinement credits fo his knowledge of the dates from July

21,2013 to July 24,2013 (CT 220,224, 2 CT SUPP 1-4.

Statment of The Preintent Facts of The Case

In the instant Case at hand the main relevant factual circumstances that are revolved around the question that's presented in this writ pertains to, that the free volition of a live Witness that was involved with the Case, was malevolently swayed and tampered with when the Los Angeles police detective by the name of Robert Smith utilized suggestive identification procedures to intertwine them with the invoking of the use of the Fourth Amendment exclusionary rules 20.08 in the follow up investigation in the Criminal Case # BA 415427, which inevitably precluded the introduction of evidence during petitioners Jury trial.

REASONS FOR GRANTING THE PETITION

- # 1) The reasons For granting the petition is because in the totality of the Surrounding Circumstances that are revolved around the obtaining, holding and exclusion of evidence thats involved with the case at hand, Contrives the essential elements required to undermining the courts empirical Judgements that where made in [Illinois V. Krull] and [United States V. Leon] in order to adjust the Fourth Amendment Exclusionary Rule accordingly.
- # 2) The reason for granting the petition is because the Case at hand Consist of the empirical evidence and or data to undermining the Courts empirical Judgments made in [Leon and Krull] and because the Controversy involved can only be adjusted by the U S Supreme Courts Original Jurisdiction persuent Under Court Rule # 11 28 USC § 2101(e). and Article III of the U.S.C 28 U.S.C § 1251 U.S. Const., Amdt. 11.

3) also a review of the entire record of the case at hand needs to be looked into by the S.C. and because petitioner is actually innocent of the Criminal Conviction obtained in case # BA-415427.

4) because the overseeing courts involved with this kind of controversy are part takers in the criminal offences originally committed in the unlawful obtainment and holding of case # BA 415427.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted, Attorney In Pro Per

Paul Edmund Duran

Date: December 9, 2019