

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Paramjit Singh Basra — PETITIONER
(Your Name)

vs.

State of Washington — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Washington State Court of Appeals Division One
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Paramjit Singh Basra, DOC# 357517
(Your Name)

191 Constantine Way
(Address)

Aberdeen, Washington, 98520
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

- 1.) Is it lawfully permissible for a State to convict a person twice for a single crime?

- 2.) Is it lawfully permissible for a State's Judiciary to abuse its authority by arbitrarily abrogating its statutory duty to address duly-filed appeals for remedy from "Double Jeopardy"?

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:

RELATED CASES

* Basra v. RJC Jail, No. 2:18-cv-00186-TSZ-BAT, U.S.
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PETITION FOR A WRIT OF CERTIORARI

Petitioner, Paramjit Singh Basra, Pro se, respectfully petitions for a writ of certiorari to review the judgment of Washington State Court of Appeals Division One in this case.

OPINIONS BELOW

The opinion (review denied) of the Supreme Court of Washington was filed on January 8, 2020, reported at No. 97708-9, and is reproduced at Appendix C. Following the opinion of the Court of Appeals of Washington reported at 10 Wn.App.2d 279 (2019) is reproduced at Appendix A.

JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C. §1257(a). Jurisdiction is proper because the decision of the Washington Supreme Court was filed on January 8, 2020. This petition for a writ of certiorari is filed within 150 days of the order review denied accordance with Rule 13.1 and 13.3, pursuant to this Court's order Thursday March 19, 2020. This petition is timely.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fifth Amendment to the United States Constitution prohibits "Double Jeopardy", yet the State of Washington Obdurately restrains Petitioner under double jeopardy for a single crime.

Washington State Constitution, Article IV, Section 20, provides in part that every cause submitted to a judge of a superior court for his decision shall be decided by him within

ninety days from the submission thereof provided.

CrR 8.3(b) provides time-limitless path for redress from arbitrary action or governmental misconduct..., yet the State of Washington's courts refuse to duly address appeals for justice by the petitioner.

Washington Rules of Appellate Procedure (RAP) 16.4(c)(6): The conditions or manner of the restraint of petitioner are in violation of United States or the Constitution or laws of the State of Washington.

RCW 2.08.240. provides in part that every case submitted to a judge of a superior court for his or her decision shall be decided by him or her within ninety days from the submission thereof provided.

OTHERS

Universal Declaration of Human Rights (UDHR)(12/10/1948).

STATEMENT OF THE CASE

The petitioner was initially charged under Case No. 09-1-05492-1KNT with One Count of 2nd Degree Attempted Murder on July 29, 2009. An Amended Information was filed on August 04, 2009, for One Count of 2nd Degree Murder following the victim's death on July 30, 2009.

On January 9, 2012, (Twenty-Nine months later), without discovering any new evidence, during trial, the State of Washington filed a 'Second Amended Information' reflects: Count One, Murder in the First Degree RCW 9A.32.030(1)(a), Count Two, Murder in the Second Degree, while committing the crime of

Assault in the Second Degree RCW 9A.32.050(1)(b)(A nonexistent crime in the State of Washington, Felony Murder Second Degree pursuant to In Re Pers. of Hinton, 152 Wn.2d 853, 857-58(2003)) The 'Second Amended Information' was filed following petitioner's refusal to accept the State's plea offer of the Manslaughter in the First Degree.(Petitioner moves the Court to take Judicial Notice of United States District Court Case No. 2:18-cv-00186-TSZ-BAT, Dkt. #11, Exhibit 47, attached Exhibit I, J, K, L. (Fed.R.Evid.201)).

Due to Multiplicitous/defective/unconstitutional indictment, wrong jury instructions and instigative closing arguments by the State, jury convicted the petitioner on both counts of murder for the same 'one' decedent.

Commencing at sentencing on April 20, 2012, Petitioner himself filed with the trial court a letter/motion asking dismissal, under CrR 8.3(b)(Appendix E); after requesting his attorney to file pursuant to said Criminal Court Rule, which his attorney declined to do (appendix F). The trial court did not rule upon said motion.

Petitioner again originated this action in the State trial court on April 27, 2016, as a motion to dismiss under CrR 8.3(b)* The trial court erroneously attempted to transfer the matter to Washington Court of Appeals, for consideration as a Personal Restraint Petition. The Court of Appeals rejected the transfer, remanding the matter back to the trial court for consideration. The trial court then exercised its discretion

* (Appendix D)

and denied to rule on the merits/relief. Accordingly, petitioner appealed the decision through the State Rules of Appellate Procedure. Following affirmation, petitioner has exerted this Petition for a Writ of Certiorari.

REASONS FOR GRANTING THE PETITION

This Petition triggers Part III, Rule 10 invoking Supreme Court Review because the State of Washington has "so far departed from the accepted and usual course of judicial proceedings" that are directly contrary to Fifth Amend. protections regarding Double Jeopardy.

The petitioner's 5th Amend. protection against 'Double Jeopardy' has been violated in the form of charging with multiple separate counts of murder for only ONE decedent. The State of Washington has a history of charging defendants with multiple separate counts of murder against one victim. See *State v. Anthony Paul Johnson*, King County Case No. 99-1-50323-2SEA; 113 Wn.App. 482(2002); *State v. Jess Richard Smith*, King County Case No. 00-C-05900-7A KNT; 148 Wn.App.1021(2009); *State v. Ish*, Pierce County Case No. 05-1-01516-2; 150 Wn.App. 775(2009); *State v. Daniels*, Pierce County Case No. 00-1-05286-5; 124 Wn.App. 830(2004); *State v. M.D.S.*, Snohomish County Case No. 01-8-00980-0; 2003 Wash.App. LEXIS 2059(2003); *State v. Shelley*, Snohomish County Case No. 02-1-00250-6; 2003 Wash. App. LEXIS 1723(2003); *State v. Quinn*, King County Case No. 94-1-08389-5; 2003 Wash.App. LEXIS 2613(2003); *State v. Faagata*, Pierce County Case No. 06-1--3067-4; 147 Wash.App. 236 (2008);

State v. Gaul, Clark County Case No. 08-1-00026-5; 2011 Wash. app. LEXIS 1438(2011)(Petitioner moves this Court to take Judicial Notice of the aforementioned cases Fed.R.Evid. 201). Charging defendants in this way is directly in violation of the Fifth Amendment of the United States. this sort "justice" is not only unlawful, but most certainly inhuman. Intervention by this Honorable Court has become necessary, to cease this type of criminal prosecution which leads to an unfair trial, protecting the citizen of Washington State, pursuant to safeguard of the United States Constitution. The State laws also prohibiting the prosecutor to overcharge to obtain a guilty per RCW 9.94A.411(2)(a)(ii)(A)(B).

Two murder convictions by a jury for one human being's death is axiomatic proof of an unfair trial, further evidence of denial of foundational Constitutional rights secured by the Fifth Amendment of the United States.

Not only is the gross violation of double murder conviction for one victim self-evident, but also the State's hostility after Petitioner's refusal of a plea settlement is legally wrong. CrR 8.3(b) says that the trial court may "dismiss any criminal prosecution due to arbitrary action or governmental misconduct where there has been prejudice to the rights to the accused which materially affect the accused's right to a fair trial". The Court has listed the type of cases which it regarded sufficient to support a dismissal. See State v. Starrish, 86 Wn.2d 200, 206, 544 P.2d 1(1975) Fn. 9: "E.g.,

State v. Sonneland, 80 Wn.2d 343, 494 P.2d 469 (1972) (an amended information charging defendant with a felony after the prosecutor had agreed to charge him with a lesser crime in exchange for information constituted arbitrary action and was properly dismissed)" Therefore, for those cases in which the right to a fair trial has been denied based on arbitrary action or government misconduct, any criminal prosecution may be dismissed whether that prosecution has just begun, is in middle or has resulted in a tainted conviction. There simply is NO TIME CONSTRAINT.

Language of CrR 8.3(b): "in the furtherance of justice" itself strongly describes the purpose of the rule 'to protect accused persons from arbitrary action...' Sonneland, I'd at 346 which means this rule is not subject to construction. It would be absurd and contrary to the purpose of the Rule to articulate it with the definition of the prosecution and time limitations. "Especially, in the interpretation of a criminal statute to the rule of lenity, the United States Supreme Court cannot give the text a meaning that is different from its ordinary, accepted meaning, and that disfavors the defendant." Burrage v. United States, 571 U.S. 204, 216, 134 S.Ct. 881, 187 L.Ed.2d 715 (2014).

Furthermore, the Washington Court of Appeals has conceded and justified that "Basra...accurately pointed out that CrR 8.3(b) did not contain an explicit, time limit." (See Appendix A @ page 2).

Neither Judge Gain nor any commissioner in the State of Washington has honored their obligation to rule on the merits when this defendant alleged "arbitrary action/government misconduct". RCW 2.08.240; Article IV, §20, of the Washington Constitution. Nevertheless, State courts refuse address this plain and obvious breach of Constitutional law. See *Ziglar v. Abbasi*, 582 U.S. ___ 137 S.Ct. ___ 198 L.Ed.2d 290(2017) at 328: "it is a settled and invariable principle, that every right, when withheld, must have a remedy, and every injury its proper redress." (citing *Marbury v. Madison*, 5 U.S. 137,163(1803)). "Where federally protected rights have been invaded, it has been the rule from the beginning that courts will be alert to adjust their remedies so as to grant the necessary relief." (citing *Bell v. Hood*, 327 U.S. 678, 684 (1946)). At 328: The Chief Justice then wrote: "The government of United States has been emphatically termed a 'government of laws and not of men'. It will [not] deserve this high appellation, if the laws furnish no remedy for the violation of a vested legal right." *Ibid.* This is *prima facie* case of miscarriage of justice that calls for remedy by means of injunction by the Highest Court in the Nation.

As defined in RAP 16.4(c)(6), the restraint of the petitioner is of an "unlawful Nature" because "material facts exist which have not been heard" and rule upon in spite of their exhaustive presentation by the petitioner, "which, in the interest of justice require vacation of the sentence".

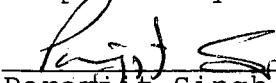
The Supreme Court of The United States hereby invoked to uphold the United Nation's 12/10/1948 (UDHR) to ensure that Petitioner is provided "equality in dignity and rights" (§1), an "entitlement without distinction of any kind" (§2), for "equal protection of the law" (§7), "right to effective remedy" (§8), and prohibition of "arbitrary detention" (§9).

Petitioner is illiterate in the English language. His court appointed appellate attorney declined to file a writ of certiorari, which is an obligation for him pursuant to Criminal Justice Act (CJA). (Appendix G). So, petitioner received help from an inmate to prepare this proceeding. Any deficiency in the proceeding should be excused.

CONCLUSION

For the foregoing reasons, this Court should grant the petition for a writ of certiorari.

Respectfully submitted,


Paramjit Singh Basra, Pro Se

DATED this 3rd day of June 2020.