

19-8772

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

ORIGINAL

Supreme Court, U.S.  
FILED

JUN 14 2020

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Mario Torres, Pro Se — PETITIONER  
(Your Name)

vs.

Natalie Saba, et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. Court of Appeals for the Ninth Circuit

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

PETITION FOR WRIT OF CERTIORARI

Mario Torres

(Your Name)

4058 Treat Blvd.

(Address)

Concord, California 94518

(City, State, Zip Code)

(925) 446-6447

(Phone Number)

RECEIVED

JUN 23 2020

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

## QUESTIONS PRESENTED

2 Whether Contra Costa County California's blanket policy of depriving a criminal defendant, the facts  
3 and the evidence (exculpatory or otherwise), surrounding their arrest and incarceration is an unreasonable  
4 application of clearly established federal law – and if so whether the policy violates a defendant's right to  
5 counsel, right to the due process of law, right to a fair court proceeding/trial, and my right to be free from  
6 cruel and unusual punishment. I am alleging this is a policy that has been practiced and enforced by  
7 and/or, with the knowledge of the officers of the court, representing the Office of the District Attorney,  
8 Office of the Public Defenders & the Superior Court. The policy is said to stem from an unspecified  
9 California Supreme Court ruling claiming that it is unsafe for a criminal defendant to obtain facts or  
10 knowledge of his case exculpatory or otherwise. I further allege that the above claimed policies are more  
11 than likely unwritten rules that are so long standing that they have become law (policy). I made everyone  
12 I talked to in and out of court of all matters brought forth in this suit.

14 Whether I have a right to correct court transcripts/documents if the incorrectness of those transcripts  
15 affects the outcome of court proceedings.

16       Whether court reporters can be held liable under 42 U.S. Code section 1983 for producing incorrect  
17       court transcripts, that they know or should know, would leave a criminal defendant at a disadvantage in  
18       his criminal proceedings and would affect future proceedings.

20 Weather the lower courts were in error, by dismissing my lawsuit because the defendants refused to  
21 answer/acknowledge my discover requests, motion to compels, etc. until the lower court made a ruling to  
22 dismiss.

23 Whether a deputy public defender can be held liable under 42 U.S. Code section 1983, for actions that  
24 would lead to the purposeful conviction of a client, for acting as a surrogate prosecutor.

25 Whether a District attorney can be held liable for the actions of a deputy district attorney in court. Such  
26 as malicious prosecution, Brady violations, using evidence that is known to be incorrect, etc., to obtain an  
27 unlawful conviction. Whether the office of the district attorney be held accountable for the same.

1        Whether the lower courts were in error refusing to take my declarations, as truth. Declarations based  
2 not on heresy, but firsthand knowledge.

3        Whether the office of the public defenders and the public defender can be held liable for refusing to  
4 properly train and hire deputy public defenders, for practicing and enforcing a county policy of depriving  
5 a criminal defendant knowledge of the facts and evidence surrounding their arrest and incarceration, any  
6 and all pre-trial knowledge of any and all unprivileged information, to deprive a criminal defendant  
7 discovery that would allow him to educate himself in matters of his arrest and incarceration.

8        Whether allegations that the defendants conspired to get me unlawfully convicted, are legitimate,  
9 taking into account I was deprived knowledge of the facts and evidence surrounding my arrest &  
10 incarceration. Deprived discovery. Put on trial even after questioning the legality of being put on trial  
11 while deprived of the facts and evidence of my arrest and incarceration. The fact that all of the times I  
12 questioned the courts about the legality of my criminal proceedings, are not reflected in the transcripts.

13       The fact that I was unable to confront a witness against me (Zierke) during my criminal trial. Zierkes  
14 admissions of intoxication are not in the preliminary transcripts, yet alleged evidence concerning her  
15 (admissions of intoxication) are incorrect. The fact Rick Hendricks appeared to be very intoxicated at  
16 trial, and was asked about his wellbeing, which is also not in the trial transcripts. The fact that I tried to  
17 fire my public defender on approximately 8-10 occasions before trial, due to discovery deprivation and I  
18 have been told that only three Marsdens are on record, etc.

19       Whether incarcerating me, and depriving me the facts and evidence surrounding my arrest and  
20 incarceration, etc., and placing a \$400,000.00 + bail on me, violates my eighth amendment right to be free  
21 from excessive bail.

22       Whether this whole case constitutes cruel & unusual punishment.

23       Whether the county of Contra Costa can be held liable for the constitutional violations  
24 described/addressed in this case.

25       Whether the lower court was in error by refusing to appoint counsel in this complex case.

## 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:

Natalie Saba  
Robin Lipetzky  
Office of Public Defenders > 800 Ferry Street  
Martinez, Ca 94553

Monica Popper  
Debbie Keys  
Billie Jean Enea > 725 Court Street  
Martinez, Ca. 94553  
Michele Rebollini  
Office of the Clerk  
Contra Costa County - 651 Pine Street #106  
Martinez, Ca. 94553

District Attorney  
Office of the District Attorney > 10 Douglas Dr. # 130  
Martinez, Ca. 94553

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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.



*see Next Page*

**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 \_\_\_\_\_ 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 \_\_\_\_\_ 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.

1.

## JURISDICTION

### [ ] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 3-17-20. see Exhibit O

[ ] 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).

*I am unsure of the legalities of my case, I have been unable to get into a law library due to incarceration from 1-7-20 to 3-20-20 & the current covid 19 lock downs. I was instructed to try to call the county law library on ~~or about~~ 6-19-20. Please take this case*

### [ ] 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).

1                   **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

2                   **AMENDMENT I**

3                   Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise  
4                   thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to  
5                   assemble, and to petition the Government for a redress of grievances.

6                   **AMENDMENT IV**

7                   The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable  
8                   searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause,  
9                   supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or  
10                   things to be seized.

12                   **AMENDMENT V**

13                   No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or  
14                   indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in  
15                   actual service in time of War or public danger; nor shall any person be subject for the same offence to be  
16                   twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against  
17                   himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property  
18                   be taken for public use, without just compensation.

20                   **AMENDMENT VI**

21                   In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial  
22                   jury of the State and district wherein the crime shall have been committed, which district shall have been  
23                   previously ascertained by law, and to be informed of the nature and cause of the accusation; to be  
24                   confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his  
25                   favor, and to have the Assistance of Counsel for his defence.

26                   **AMENDMENT VII**

1 In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by  
2 jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the  
3 United States, than according to the rules of the common law.

4 **AMENDMENT VIII**

5 Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments  
6 inflicted.

7 **AMENDMENT XIV**

8 All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of  
9 the United States and of the State wherein they reside. No State shall make or enforce any law which shall  
10 abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any  
11 person of life, liberty, or property, without due process of law; nor deny to any person within its  
12 jurisdiction the equal protection of the laws.

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## **STATEMENT OF THE CASE**

Due to a Contra Costa County California policy of discovery deprivation, pre and post-trial, I am unable to obtain many of the dates and most facts concerning the incidents at issue. To this day I am unable to obtain the facts and evidence of my arrest and incarceration.

On the evening (still daylight) of 7-4-12, I had a verbal argument with my then girlfriend Betty Zierke.

After the argument (I was later told by Zierke), Zierke contacted her friend Keagan Mize about the argument.

For reasons unknown to me (I was later told by Zierke), Mize contacted the police.

Two Concord police officers knocked on my door.

I answered the door to Concord police officers Mike Hansen and Daniel Smith.

Hansen stated that he and Smith needed to enter my residence

I asked Hansen for a warrant.

Hansen became very angry and told me in a threatening manner that I had to let he in Smith into my home because "It's the Law!"

Having nothing to hide and being under threat by to armed officers, I agreed, under duress, to let the officers into the residence.

I motioned for Hansen and Smith to follow me into my home.

As soon as Hansen and Smith are in my residence, while my back is to them, they start to beat me with their police batons.

I am tackled to the floor.

I land on my stomach and state "You fucked up now" (I am very aware that the actions of the officers are unlawful)

I am lying on my stomach, Hansen is straddled on top of me, jabbing the back of my head with his police baton.

I am unsure of how many times I was hit by Hansen with his police baton, but it was long enough for me to time the strikes, and while still laying on my stomach, I snatch the baton out of Hansen's hands.

1 Hansen then grabs his baton from my hand, cuffs my hands behind my back, then rolls me on to my  
2 back continuing to straddle me.

3 By this time, I can hear Zierke trying to come down the stairs.

4 Smith will not let Zierke come down the Stairs.

5 I can hear Smith continually asking Zierke if I assaulted her, and Zierke continually answers no.

6 It appears to me that Smith is trying very hard to get Zierke to state that I assaulted her.

7 After a minute or so of listening to Smith, I yell to Smith that Zierke is uninjured, I tell Smith he is not  
8 a detective, and I call Smith a nigger (Smith is a black male).

9 Hansen looks down at me, punches me in the face and says "don't call my partner a nigger" (I am still  
10 lying on my back, my hands are still handcuffed behind my back, and Hansen is still straddled on top of  
11 me).

12 After Hansen punches me in the face, I state to Hansen "Fuck you! You're a nigger too, I'm not calling  
13 you two niggers because I am racist, Fuck you! (Hansen is a white male).

14 I am brought to my feet and sat in a chair.

15 Hansen runs a background check on me through his police radio.

16 My background is clean, I have no criminal history.

17 Hansen and Smiths demeanor changes. Zierke is uninjured, I am a law-abiding citizen.

18 Hansen attempts to down play the actions of he and Smith. Hansen's states that he is going to uncuff  
19 me to release me. Hansen is acting like he is doing me a favor.

20 I am furious about what just happened. I tell Hansen if he uncuffs me I am going to stick my foot in  
21 his ass.

22 Hansen becomes angry. and I am arrested. While in the squad car, Hansen asks me what I do for a  
23 living. I inform Hansen that I am a lineman for PG&E. Hansen states, "Not anymore you're not."

24 I am taking to the Concord police station and placed into a small holding area.

25 Hansen sits directly across from me behind a glass partition, attempting to smooth things over.

26 I look at Hansen and say "Fuck you."

1 Hansen becomes angry and walks around the jail and opens my cell door.

2 Hansen states "why don't you say that to my face."

3 Refusing to be baited by Hansen, I don't say anything. After about 10 seconds, Hansen states "that's  
4 what I thought pussy" and leaves.

5 Hansen returns with an unknown officer and removes me from my cell to take photographs of my  
6 injuries sustained thus far. A photo of Plaintiffs left hand is taken. It was Plaintiffs belief that it may have  
7 been broken.

8 The photographing finishes and I am placed back into the holding cell.

9 A short time later, I was taken into a separate room to be finger printed, and stopped before the printer.

10 A blonde female officer was standing to my left, Smith was standing to my right, and Hansen was at  
11 the door way at my far left.

12 The female officer takes my left hand and proceeds to take my fingerprints and in doing so, pushes  
13 down on my hand.

14 Out of reaction, I pull my hand away because of the severe pain.

15 The female officer looks at me.

16 I put both my hands up in a very submissive manner, arms out to the sides, elbows bent, palms open,  
17 facing out, and one hand on each side of my head.

18 With my hands still raised in a submissive manner, I state to the female officer "Sorry, I am not trying  
19 to give you a hard time but I think that my hand might be broken. Can you please be easy with it?"

20 Smith who is still at my right side, becomes very angry. Smith grabs my right arm and starts twisting it  
21 (Smiths clockwise) causing me to lean forward, bending at the waist.

22 The female officer who is at my left grabs my left hand and slams it on the finger printer.

23 Because of the severe pain, I pull my left hand off of the finger printer away from the female officer.

24 I turn my head to see Smith twisting me right arm with both hands, it's very painful.

25 I remember thinking to myself "why are these people doing this to me, I have not done anything  
26 wrong."

1 Out of reaction and pain, I untwist my arm.

2 I get hit from behind by Hansen, end up on my stomach, getting beat by Hansen, Smith, and the  
3 female officer.

4 There is a video camera, in the finger printing room that will show that I am being truthful.

5 After the beating I am placed into a holding cell directly across the finger print room, by Hansen.

6 Through the holding cell doors, I state to Hansen "I'm gonna sue your asses"

7 Hansen replies "Wait in line."

8 I state to Hansen "I'm not some crack head off the street, I'm a working stiff. I'm gonna see this  
9 matter through and sue your ass."

10 Hansen becomes angry, kicks the garbage can next to him and storms off.

11 After the incident concerning the officers that occurred on 7-4-12, I was arrested every few weeks for  
12 various alleged crimes.

13 On or about 4-3-13 I am arrested for various alleged crimes amounting to 15 felonies and 5 strikes,  
14 with a bail of approximately \$460,000.00

15 Public defenders Natalie Saba and Robin Lipetzky are assigned to represent me in my criminal  
16 proceedings.

17 I am offered a plea bargain of 45 days in jail, if I admit to resisting arrest for the actions of Concord  
18 police officers Hansen and Smith for the night of 7-4-12.

19 Due to my innocence, concerning all allegations, and the fact that I have no criminal history, I refused  
20 to plead guilty to any crime.

21 I inform Saba of the actions of Hansen and Smith that occurred on the evening of 7-4-12. I state to  
22 Saba that I want to sue Hansen and Smith.

23 Saba states "I not helping you with that!"

24 I am aware that Saba cannot act as a civil attorney, but Saba has a legal obligation to investigate my  
25 claims of innocence, officer fraud, and excessive force for impeachment purposes.

26 Saba continually pressures me to take the plea bargain being offered, but I continue to refuse.

1 I inform Saba that the criminal charges against me are impossible, because I have not committed any  
2 crimes.

3 Due to my innocence, and being aware that it is impossible for either the district attorney Cunnane or  
4 Saba to have any evidence of me committing any crimes, I state tthat I am in need of my discovery, to  
5 enable me to make a proper defense with the assistance of counsel. I am in need of the facts of my case.  
6

7 Saba states "It's against Contra Costa County policy to allow inmates their discovery."

8 I inform Saba that a criminal defendant has a right to the cause and nature of their alleged crime, the  
9 probable cause and justification of their arrest and incarceration, etc.

10 Saba states "Its unsafe for you to have your discovery."

11 I again inform Saba of my right to the facts surrounding my arrest and incarceration, and my need for  
12 the discovery.

13 Saba states "I'm not giving it to you."

14 I cannot stress enough how many times I demanded my discovery. I demanded it from every attorney  
15 assigned to represent me, every time I saw them. I would request discovery in open court at just about  
16 every court proceeding. The court would order me not to speak, but I would speak up on the matter  
17 anyways. I did this over and over again. I wanted to make sure that It was clearly established on record  
18 that I was being deprived of the facts and evidence surrounding my arrest and incarceration and that I had  
19 made all officers of the court aware of this. I am lumping this fact into one paragraph because a writ of  
20 cert is to be 40 pages in length and my declaration for the facts of my case alone is approximately 100  
21 pages.

22 A Marden hearing is held and I attempt to dismiss Saba, for depriving me the facts of my case, in the  
23 courtroom of John Doe judge.

24 Saba informs the court that it is unsafe for me to obtain discovery, and stated that the California  
25 Supreme Court has ruled that it is unsafe for a criminal defendant to obtain any discovery.

26 It was the opinion of John Doe judge that Saba was a good attorney because he knew her very well and  
27 that Doe judge did not see why I would have a right to discovery in my case.  
28

1       Preliminary hearings are held on two separate occasions, signs were posted stating that I was not  
2       allowed to speak in court.

3       Throughout all of my court proceedings I was informed by the court that I was not allowed to address  
4       the court because I had representation. Taking into account the fact that Contra Costa Counties public  
5       defenders are practicing and enforcing a county policy of discovery deprivation, the fact that I am not  
6       allowed to address the court, and the fact that there is a cap on the amount of legal information a criminal  
7       defendant is allowed to obtain (one request for legal information a month), I was unable to educate myself  
8       in a way that would allow me to defend myself in any competent manner.

9  
10      On or about 5-21-13, a preliminary hearing was held for Contra Costa County Superior Court case  
11     # 5-131090-3 concerning a fist fight that had occurred around November of 2012. (I was attacked by a  
12     man named Rick Hendricks (Zierkes step father), Hendricks had lost the fight, and was taken to the  
13     hospital, where he tested positive for methamphetamine).

14      I recall neither the testimony of Hendricks or any alleged witness matched anything that was in the  
15     police reports concerning the incident an issue (I was "allowed" to quickly view police reports). I have  
16     been unable to obtain the police reports surrounding this issue, per county policy, making it impossible to  
17     present any type of argument in any court.

18  
19      On or about 6-25-13, a preliminary hearing was held in the courtroom of Judge Stark concerning  
20     Contra Costa County Superior Court Case # 5-131416-0, for various alleged crimes ranging from  
21     domestic violence to felony assault on a police officer for matters concerning the incident of 7-4-12.  
22     District attorney Scott Cunnane was prosecuting, I was defended by Natalie Saba.

23      During the preliminary hearing:

24      •     Alleged victim Betty Zierke arrived at court intoxicated, admitted on record, to being  
25        intoxicated while making her preliminary testimony as well as being black out drunk on a  
26        regular basis. I attempted to address the court about Zierkes admission of intoxication as  
27        the hearing was coming to a close but I was told by judge Stark that I was not able to speak

1 because I was "appalling" (Zierkes admissions of intoxication are not in the preliminary  
2 transcripts, nor is Starks comment that I am appalling).

3 • Alleged victim Christina Torres, admitted for the record on numerous occasions, that she  
4 was in fact the party that assaulted me concerning the incident(s) at issue. (most of Ms.  
5 Torres' admissions of assaulting me are not in the preliminary transcripts).

6 • Alleged victim, Concord police officer Daniel Smith testified that he and his partner Mike  
7 Hansen entered my home on the evening of 7-4-12, because I appeared to be reaching for a  
8 weapon behind my front door, which is a clear contradiction of what is described in the  
9 police reports, I obtained in 2018 (Smiths weapon allegations are not in the preliminary  
10 transcripts; no "weapon" was ever taken into evidence).

11 • For reasons unknown to me at this time, Concord police officer Mike Hansen was not  
12 brought in to make a preliminary testimony, nor was ever part of any court hearing.

13 On or about 8-5-13, a pretrial hearing is held concerning my trial the following day, for Contra Costa  
14 County Superior Court case # 5-131090-3, In the courtroom of judge Bruce Mills. District attorney Scott  
15 Cunnane was prosecuting, I was defended by Natalie Saba.

16 During pretrial, I inform Mills that I would like to dismiss Saba, due to the fact that I have no access to  
17 discovery, the facts or evidence of my own criminal case.

18 Saba informs Mills that I have already had Marsden hearings in the courtroom of judge Clare Maier  
19 and Maier had already ruled that I am not allowed to have any discovery.

20 Mills denies my request stating that he is not going against another judge.

21 I question Mills about the legality of putting me on a criminal trial, depriving me of the facts and  
22 evidence, surrounding my arrest and incarceration.

23 An argument ensues, between Mills and I.

24 Mills stands up and walks out of the courtroom.

1 I then try to give Saba, a discovery motion that I had written, and instruct Saba to give it to Mills. Saba  
2 refuses to take it. I then instruct Saba to give the motion to her Supervisor Robin Lipetzky. Saba takes the  
3 motion and storms out of the courtroom.

4 District attorney Scott Cunnane is sitting in his chair with his head down, witnessing the entire  
5 exchange.

6 A sheriffs deputy removes me from the courtroom, and I am brought back to my jail cell.

7 Unknown to me until approximately April of 2016, when I was able to obtain the pre-trial transcripts,  
8 after I was removed from the courtroom, the pretrial continued without my knowledge and statements  
9 made by me on record, are not in the court transcripts. The transcripts read "inaudible conversation."

10 On or about 8-6-13, trial is held for Contra Costa County Superior Court case # 5-131090-3,  
11 concerning an alleged assault on Rick Hendricks, in the court room of judge Bruce Mills. I am being  
12 prosecuted by district attorney Scott Cunnane, and defended by Natalie Saba.

13 In my trial, Hendricks takes the stand to testify against me.

14 Hendricks appears to be intoxicated, he is slurring his words, he is difficult to understand.

15 While being questioned, Hendricks is asked if he is alright (I recall the district attorney asking this  
16 question, regardless it is not in the trial transcripts).

17 Hendricks slurs his way through his testimony.

18 I get called upon to testify, in my criminal trial.

19 Before I am able to testify, Mills takes Cunnane and Saba into his chambers for a meeting.

20 All parties return from the judges chambers at which time I take the stand.

21 Saba asks me if I have ever assaulted my ex-girlfriend Betty Zierke, at which time I state "no."

22 Mills immediately, calls a recess and the jury is dismissed.

23 After the jury leaves Mills states that Saba and I have "opened the door" because I claimed innocence  
24 for all alleged assaults against my ex-girlfriend Betty Zierke. The theory behind this, was something to  
25 the affect of, Mills and Cunnane know that I was guilty of the alleged assaults on my ex-girlfriend Betty  
26 Zierke, though I had never been convicted of anything, and because I was not admitting guilt to my

1 alleged crimes, then I had "opened the door." Claims that I had committed perjury was also suggested by  
2 Cunnane.

3 Cunnane informs Mills that he had sent a police vehicle to pick up Zierke so she can testify against me  
4 in my criminal trial.

5 Zierke cannot be found so it is decided by Mills and Cunnane that photos of Zierke with a couple of  
6 bruises on her legs were to be brought into my trial as proof that I beat Zierke. Zierke's mother Marilyn  
7 Casey was brought in to testify against me in the place of Zierke.  
8

9 I am eventually cross examined by district attorney Cunnane, at which time Cunnane tells the jury that  
10 I beat pregnant women. At this time, I do not have any knowledge of where this accusation stems.

11 At this point I am very angry, I become very abrasive and my testimony tanks.

12 At jury instruction, Mills tells the Jury "We already know what the verdict is going to be, this should  
13 not take long. It's a Friday and a holiday weekend, let's get this wrapped up" (Mills remark is not in the  
14 trial transcripts).

15 I am convicted within an hour.

16 After I am convicted, and the jury is dismissed, Mills, Saba, and Cunnane go back into Mills chambers  
17 for another meeting.

18 Saba returns to the courtroom and informs me that Mills wants me to take a plea bargain for three  
19 years for all cases against me, at which time I refuse. I tell Saba that "I will sit in jail for 20 years before I  
20 take a deal under these circumstances."

22 A couple of days later, Saba visits me in my county jail cell and informs me that I am scheduled for  
23 trial on the charges of felony assault on a police officer with a strike enhancement for matters that  
24 occurred on 7-4-12, when Hansen and Smith assaulted me in my home. Trial is scheduled in the next  
25 couple of weeks.

26 On or about 8-16-19, probation officer Battles pays me a visit in county jail.  
27  
28

1 I am looking for help, Battles is an officer of the law. I explain to Battles, all matters described above.  
2 I inform Battles that I am scheduled for a second trial for felony assault on a police officer, with a strike  
3 enhancement and I never did anything to harm an officer.

4 Battles is indifferent to my plight. Battles informs me that police officers are good people who are just  
5 misunderstood.

6 I sit back into my seat, and referring to my upcoming trial of assaulting police officers, I state to  
7 Battles "Felony assault on a police officer with a strike enhancement is a very serious assault."

8 Battles responds "Yes, it is Mr. Torres."

9 I state "I have been denied my case file since my arrest, but I guarantee you that there is no medical  
10 report in there. Wouldn't there be some sort of medical report, if I felony assaulted a police officer with a  
11 strike enhancement? You know why that medical report isn't in there? Because none of this ever  
12 happened."

13 Battles looks at me for a long moment and states "You're pretty smart Mr. Torres." and leaves.

14 Battles comes back a short time later to finish up the interview, at which time I thank him for his time.

15 Battles responds in a very snide way "Don't thank me."

16 On or about 9-3-13, I am brought into the courtroom of Bruce Mills for sentencing. District attorney  
17 Scott Cunnane is present, I am represented by Natalie Saba.

18 I inform Natalie Saba that my family has agreed to hire an attorney and I would like to stay the  
19 proceeding so paid counsel can represent me.

20 Mills denies my request for a stay.

21 I state to Mills "You're telling me that I have no right to a paid attorney?"

22 Mills responds "No" (you don't have that right).

23 The whole courtroom stops what they are doing, and look at Mills for a long moment.

24 Mills then states that he believes that I am just stalling for time.

25 I again attempt to dismiss Saba, at which time Cunnane laughs and states "He's been on six Marsdens  
26 in judge Clare Maier's courtroom alone" (I had been on many Marsdens leading up to this point

1 approximately 8-10 total. Most had been in the courtroom of judge Clare Maier. Maier continually gave  
2 me a presumption of guilt, in my case. For example when I would inform Maier of my right to my  
3 evidence in my case, Maier would state "What about the rights of the victims," etc., and refuse to allow  
4 me to dismiss Saba for failing to give me any knowledge or the facts surrounding my arrest and  
5 incarceration). The sentencing transcripts now read "I believe there has been three."  
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7 A Marsden hearing is granted and denied.  
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9 I am sentenced to serve six years in a California State Prison.  
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## **REASONS FOR GRANTING THE PETITION**

**This case presents an ideal vehicle for resolving recurring legal issues of unquestionable importance to the fair and uniform enforcement of clearly established federal laws.**

## **DEPUTY PUBLIC DEFENDER**

## NATALIE SABA:

It allege that I received the Ineffective Assistance of Counsel at every stage of the criminal process, defendants have a “right to the assistance of counsel, that is acting reasonably within the range of competence demanded of attorneys in criminal cases” **Strickland v. Washington**, (1984) 466 U.S. 668, 687; “The U.S. Supreme Court recognizes that the Sixth Amendment right to counsel extends to the plea-bargain stage” **Miles v. Martel**, (2012) 696 F.3d 889; I further allege that Saba was purposeful in allowing her actions to fall well below the standard norm.

- Saba refused to thoroughly investigate my claims of being a victim of excessive force, illegal search and seizure, etc. at the hands Concord police officers on 7-4-12, despite being told that the video camera recordings at the department would prove my claims of innocence and give me credibility in my case.
- Saba Refused to inform me of all the facts and the evidence surrounding my arrest and incarceration, any & all pre trial knowledge of any and all unprivileged information. When I requested the case material (discovery) that would allow me to educate myself in matters of my case, Saba refused to provide it.
- The alleged domestic violence charges concerning Betty Zierke were forever changing. I was told that I was being charged with domestic violence for matters that occurred on July 4<sup>th</sup> 2013, Upon receiving the police reports in July of 2018, I learned that I was not even arrested for domestic violence as stated by officers of the court involved in my case. See **Appendix A**, in its entirety, It is my belief that the police reports don't even show that I committed a crime.

1           • During Betty Zierkes preliminary testimony she admitted to being drunk while making her  
2           preliminary testimony and black out drunk on a regular basis ((**Appendix C**). Zierkes  
3           admissions are not in the preliminary transcripts.) Saba failed/refused to continue to  
4           question Zierke, or make any attempt to impeach Zierkes testimony. (I was informed by  
5           public defender Kira Murray that Saba is now claiming that she does not remember any  
6           admissions of intoxication.).  
7  
8           • I informed Saba that Betty Zierke was a drunk and had a drug problem. I stated that Zierke  
9           was not a good person. Saba never investigated or properly investigated my claims, in 2019  
10           a court appointed investigator interviewed Zierke and the report states that she was  
11           intoxicated and admitted to having a history of drug and alcohol use. See **Appendix N**, in  
12           its entirety.  
13  
14           • During pre-trial I questioned in open court, the legality of putting me on a criminal trial  
15           deprived of the facts and evidence surrounding my arrest and incarceration. I was removed  
16           from the courtroom and according to the transcripts I received in 2016, the pre-trial was  
17           continued without my knowledge, in the presence of Saba, Cunnane and Judge Mills. See  
18           **Appendix D** (Before being removed from the courtroom I gave Saba a Motion for  
19           discovery that I had attempted to write and she refused to present it to the court. See  
20           **Appendix J**).  
21  
22           • Saba put me on trial depriving me knowledge of the facts and the evidence surrounding my  
23           arrest and incarceration.  
24  
25           • See **Appendix M**, in its entirety, for additional matters/claims.

26           I allege Saba's actions as described above violated my right to the due process of law as guaranteed by  
27           the Fifth and Fourteenth Amendments, my right to competent counsel as guaranteed by Sixth  
28           Amendment, and my right to a fair court proceeding and trial as guaranteed by the Sixth & Seventh  
         Amendments of the U.S. Constitution.

For all matter above, and all matters as described in this cert, I am alleging that Public Defender Natalie Saba threw my case, and she conspired with State officials to get me convicted at criminal trial. I further allege Sabas conduct was intentional. “State public defenders are not immune from liability under 1983 for intentional misconduct by virtue of alleged conspiratorial action with State officials that deprives their clients of federal rights” **Tower v. Glover**, 104 S. Ct. 2820, 467 U.S. 914 (1984).

## COURT REPORTERS

## MONICA POPPER:

On or about 6-25-13, during Betty Zierkes preliminary testimony (**Appendix C**), I informed Natalie Saba that Zierke was testifying intoxicated. Having dated Zierke for quite some time, I could tell that Zierke was intoxicated. After a lot of pressure from me, Saba asked Zierke, if Zierke was currently intoxicated and if she (Zierke) got black out drunk on a regular basis, at which time Zierke answered yes. Zierkes admissions of intoxication are not in the preliminary transcripts.

## DEBBIE KEYS:

On or about 8-5-13, during pre-trial, I questioned judge Mills about the legality of putting me on a criminal trial deprived of the facts and the evidence surrounding my arrest and incarceration, and the fact that I was not being allowed to fire my public defender for putting me on trial in such a manner.

Judge Mills and I started to argue about the matter, and Mills stood up and walked out of the courtroom.

I was then taken out of the courtroom by a sheriff deputy and taken back to my cell.

Unknown to me until I received the pre-trial transcripts in 2016, the pretrial continued without me and without my knowledge. The transcripts now read “inaudible conversation” (**Appendix D**, page 18, at 7), concerning the argument between Mills and I, and the transcripts do not show me speaking up at all, nor do they reflect that I was removed from the courtroom. See **Appendix D** in its entirety.

## **BILLIE JEAN ENEA:**

1 On or about 8-5-13 during my criminal trial, alleged victim Rick Hendriks appeared to be very  
2 intoxicated while making his testimony. It was so bad that I recall (it being) D.A. Cunnane asking  
3 Hendriks if he was O.K. That is not in the trial transcripts (**Appendix E**).

4 As my trial was wrapping up, during jury instruction, I allege that Judge Mills gave me a presumption  
5 of guilt to the jury. Mills told the jury something in the affect of "We already know what the verdict is  
6 going to be, this should not take long. It's a Friday and a holiday weekend, lets get this wrapped up." That  
7 portin of Mills jury instruction is not in the trial transcripts (**Appendix E**).  
8

9 **BILLIE JEAN ENEA:**

10 During sentencing I again attempted to fire Saba, D.A. Cunnane laughed at me and stated something to  
11 the affect of "Mr. Torres has been on six Marden hearings in (Judge) Clare Maier's courtroom alone" The  
12 transcripts do not reflect Cunnane's comment. The transcripts read "I believe there has been three"  
13 (Exhibit G, page 5 at 19-23). I have been told by officers of the court that I only have three Marsdens on  
14 record instead of the 8-10 that should be on record.

15 See **Appendix M**, in its entirety, for additional matters/claims.

16 I allege the actions of the court reporters as described above violated my right to the due process of  
17 law as guaranteed by the Fifth and Fourteenth Amendments, and my right to a fair court proceeding and  
18 trial as guaranteed by the Sixth & Seventh Amendments of the U.S. Constitution.  
19

20 For all matter above, and all matters as described in this cert, I am alleging that the above-named court  
21 reporters conspired with State officials to get me convicted at criminal trial. I further allege that the court  
22 reporter conduct was intentional. "Court reporters did not have absolute judicial immunity from any civil  
23 rights liability on allegations that they deliberately altered transcripts as part of a conspiracy to defraud  
24 litigant." Loubser v. Thacker, (2005) 440 F.3d 439  
25  
26

**TRIAL**

27 I was put on a criminal trial deprived of the facts and the evidence surrounding my arrest and  
28 incarceration. A portion of my pre-trial was held without my knowledge or consent. After I claimed

1 innocence, while testifying at my criminal trial, the court, the district attorney and my public defender  
2 (who allowed it) brought in alleged evidence concerning an alleged domestic against Zierke, that I was  
3 not even charged with. I was not even allowed to confront that witness (Zierke) against me. Instead the  
4 court chose to bring in Zierkes mother for some sort of heresy purposes. See **Appendix H** in its entirety,  
5 concerning my full reversal and Appendix F, for the testimony of Zierkes mother.

6 See **Appendix M**, in its entirety, for additional matters/claims and explanations.

7 I allege the actions of the officers of the court involved in my case in its entirety as described above  
8 and in this cert violated my right to the due process of law as guaranteed by the Fifth and Fourteenth  
9 Amendments, and my right to a fair court proceeding and trial as guaranteed by the Sixth & Seventh  
10 Amendments of the U.S. Constitution.

11 For all matter above, and all matters as described in this cert, I am alleging that the above-named  
12 officers of the court involved in my case conspired to get me convicted at criminal trial. I further allege  
13 that their conduct was intentional.

14  
15  
16 **EXCESSIVE BAIL**

17 I was arrested and incarcerated, deprived of the facts and evidence surrounding my arrest and  
18 incarceration, and a \$400,000 + bail was put on me by the court (**Appendix B**). I allege that I was  
19 deprived of my right to be free from excessive bail as guaranteed by the Eighth Amendment of the U.S.  
20 Constitution.

21  
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23 **CRUEL AND UNUSUAL PUNISHMENT**

24 I allege that my case in it's entirety is cruel and it violated my Eighth Amendment right to be free from  
25 cruel and unusual punishment. The officers of the court involved in my were cruel because I stood up for  
26 my rights. I further allege that punishing me for doing what the law plainly allows is a due process  
27 violation (Fifth and Fourteenth Amendments) of the most basic sort,

1        This unconstitutional behavior of staff is carried out pursuant to a policy, pattern of practice, or  
2 custom, whether formal or informal, which violates the constitutional rights of persons situated such as  
3 the Plaintiff.

4        The condoning of misconduct, and the failure to end the policies, patterns of practice, customs and  
5 procedures, was a proximate cause to the injuries suffered by me (Plaintiff).

6        See Appendix I-L for my many attempts to obtain discovery information. The County will not release  
7 my case material even when I offer to pay for it. Furthering my allegations of a county policy of  
8 discovery deprivation and corruption.

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## **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,



A handwritten signature in black ink, appearing to read "Marvin Brown", is written over a horizontal line.

Date: 6-14-2020