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No. 20-5765

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

DANIEL F. BORDEN, SR - PETITIONER.

[INVOKING UNDER 28 U.S.C. § 1254(1). (JURISDICTION)]

VS.

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT; AND THE EASTERN DISTRICT OF CALIFORNIA, FEDERAL COURT "et al." - RESPONDENT(S)

ON PETITION FOR WRIT OF CERTIORARI TO THE STATE COURT OF APPEALS FOR THE NINTH CIRCUIT "et al."

"PETITION FOR WRIT OF CERTIORARI"

DANIEL F. BORDEN #G-44478
CTF FACILITY "C" G-WING #150LOW
P.O. BOX 689
SOLEDAD, CALIFORNIA 93960-0689

NO PHONE NUMBER
SOLEDAD STATE PRISON PRISONER

50-2462

QUESTION(S) PRESENTED

1. Does Brady Apply to Police officers, when They Hide Exculpatory Material Evidence That would Exonerate A Person?

2. Can The People Just Diregard Favorable Evidence Showing The Accused is Factually Innocent?

3. At The Inception For A warrant, For Arrest, And Then in Criminal Arraignment, must There Be A Probable Cause Determination order, In The File?

4. Can A photo Copied, Scanned, Ante Dated Signature to Have "Issue Warrant", Declaration, For Request, Be Valid By Someone who Did Not observe The Committing of Crime?

5. When is it okay To Prevent Any Hearing For Factual innocence, That Can Clearly Be Proven, By A Judge?

6. Is Case Fixing wrong For The outcome of A Conviction?

7. Can A Police officer use A Arrest warrant To Seize All your Property, or Close Your Bank Accounts An Shut Down Your Legal Incomes?

8. Can A Prosecutor Tell, on Scene, Eyewitnesses who saw The Correct Perpetrator of A Crime, Your Not Needed, Dont Come to Court?

(Cont Next Page

[Questions Presented Cont
From First Page.]

(9) Can The Prosecutor wait Seven months For preliminary Hearing, When Accused Never waived Time.?

(10) Can a Prosecutor Morph Extra Criminal Charges into one charge, with "No Notice" of Additional Charges to Be Charged By Surprise?

(11) Can a Superior Court Judge order a Hearing, Have it to Be on Calendar To Be Heard; By Ruling, An Another Judge, Not Honor That Ruling?

(12) Does The Fruit of The Poisonous Tree Standard Still Apply?

(13) Does Defense Attorneys Failure to locate Eye-witnesses of a Crime Amount to I.A.C.?

(14) When a Petitioner Has Clean Hands An Comes Before The Court, Can Relief Be Given For A Judgment Procured By Fraud?

(15) When a writ Holds The Necessary Hard-Evidence, Supported By Affidavits, Exhibits or other Acceptable Evidence of Hardships By Injustice, Does Justice "Still" Demand Intervention?

List of Parties

All Parties Appear in The Caption of The Case on The Cover Page:, Except The People of The State of California, whom are Also Respondents.,

Inclusive of "et al."

At All Times Herein The District Court "Had" Already Granted This Petitioner to Proceed In Forma Pauperis lawfully.

Table of Contents

Index To Appendices and Exhibits; A Through D. (Attached.)

"[ORDERS]"

TABLE OF AUTHORITIES CITED

CASES: U.S. vs. Langsdale 115 F. Supp 489 (1953) PAGE NUMBER

"Relief From Fraud" - My Express Ground (See Next Page→ under The Saving Clause; Method of Relief From Judgment (1941) 4 Fed. Rules Serv. 942, 945)

(Moore and Rogers, Federal Relief From Judgments (1946) 55 Yale L.J. 623, 653-659; 3 Moore's Federal Practice (1938) 3267 et seq (See: Hazel-Atlas Glass Co. v. Hartford Empire Co. (1944) 322 U.S. 238. [Relif After Time Has Run]: (Fiske v. Buder (C.C.A. 8th, 1942) 125 F. (2d) 841, (Bucy v Nevada Construction Co. (C.C.A. 9th, 1942) 125 F. (2d) 213.

STATUTES AND RULES

Bill of Review in Equity to Afford Relief From:

Rule 60(b): Fraud (b)

Rule 70. (a) Party's Failure to Act, when The Court Could Have Ordered The Act Be Done.

Rule 80. The Superior Court Clerks Testimony Proved By The Transcript Certified By The Person who Reported it. (Exhibits; B2-B-3 Wathins Deptuty Clerk on (9-3-2019)(Seven Pages total-7) (Pages (3) and (5) show

OTHER

The photo copied or Scanned Signature By a District Attorney Administering a Declaration For a Warrant For Arrest, By a Detective standing Right in Front of Them, that Got a phone Call on hour Before (Exhibit B-1) (A Spot on Case as This Judge Robert Bardwil of The U.S. B. Court Sanctioned Attorneys Rules [9004-1 (c) 1(c) and (D) which States Clearly (1)

[Other - Continued From Page-1]

By Law, An Electronically Signed Document Can only Be Used where A Copy of The Document is with An Original Signature (A.K.A.) The Wet Signature is Also Available. In This Case The Sacramento County District Attorney "[By Fraud]" in Concert with The Police Detective, Failed to Have An Original Signature To Support An Arrest Warrant / Complaint At Arriagnment)

[But By Reckless Disregard For An Accused's Rights:]

By Bad Faith - Ante-Dated The Document / Declaration in A Fraudulent Attempt to Satisfy A Probable Cause Determination; That was Required By Law.

For At All Times mentioned Herein!

(A) From Warrant For Arrest Inception - To - Arraignment - To The illegal Verdict - And Sentencing. There was "[N]ever A Probable Cause Determination order signed By The Judge! Even The Holding or is Blank, In The Court Clerks Certifide Transcript of original Documents: (In violation of my 4th, 5th and 14th Amendment Rights of Due Process Gerstein vs. Pugh (1975) 420 U.S. (Probable Cause order By Judge.)

Penal Code §§ 813 Felonies, and The Requirement of Rule 3 and 4. The Commencement of Criminal Proceedings

Continued:

Table of Authorities Cited

Continue Next Page —

U.S. vs. Cellitti 387 F.3d. 618, 620, 622 (7th Cir. 2004). _____

Giordenello vs. U.S. 357 U.S. 480, 486 (1958) _____

U.S. vs. Arvizu 534 U.S. 266 (2002) _____

Kyles vs. Whitley 514 U.S. 419 (1995) _____

Arizona vs. Youngblood 488 U.S. 51 (1988) _____

California vs. Trombetta 467 U.S. 479 (1984) _____

Neil vs. Biggers 409 U.S. 188 (1972) _____

AND- Manson vs. Brathwaite 432 U.S. 98 (1977) _____

"Statutes and Rules" - Continued)

1.) Senate Bill 1134 pursuant to Penal Code 1437. 3(A) and 3(B) were added for new evidence, that cannot be disputed.

2.) Violations of my 4th, 5th, 6th, and 14th Amendment Rights of Due Process

3.) It is a "Rule" of this U.S. Supreme Court [under such circumstances, one of which is after-discovered fraud relief will be granted against judgments regardless of the term of their entry, for every element of the fraud, causeing a miscarriage of justice [demanded] the exercise of the power to set aside fraudulently begotten judgments.

As a Rule: [Laches of a Innocent Appellants Rights Cannot Be Barred By Hardship of which The Clear Fraudulent Representations were upon which They Relied, and Just Grow so out of The mere passage of Time.

4.) Petitioner Absolutely Timely made objection By Motions Filed in The Superior Court That were Specific in order to Preserve The issues For Review. [By The Statutes of The Contemporaneous objection Rule: "(Before Jury Trial]" However "NO" Meaningful Inquiry Into The Prejudice was Given Petitioner or Attorney of Record See Attached Motions and Declaration of Attorney James L. Lynch 7/18/2008; And The multiple Timely Motions To Be Heard By The Court on Minute order Turned a Blind-Eye to and ignored, Because The Evidence would Have undermined The Fraudulent ~~Structure~~ upon which The Prosecution was Based. (See Appendix-"C")

5.) For The Statutes-and-Rules; of This United States Supreme Court Holding of Standard of Review is Clear, In (Schlup 513 U.S. at 327 (U.S. Ex Rel Bell vs. Pierson, 267 F.3d 544, 552 (7th Cir. 2001). This Petitioners Case is Extraordinary, For a Finding of Miscarriage of Justice, and Requires Justice, For The Reckless Prejudice

For The Deliberate Failure To Both Investigate The Exculpatory, Impeaching Information or Ever Hideing it, By Suppression, when That Evidence was Material, and Favorable to The Accused, And So Did violate Due Process, and Daniel F. Borden Sr. Constitutional Rights, By The Bad Faith of The Prosecution, For "The Rule is Clear" The Failure To Preserve Evidentiary material of which No more can Be Said, Than it Could Have, and Should Have Been Subjected to Tests, which The Police officers and Prosecution "Know Full well" would Have Exonerated This Petitioner, with Clean Hands of Any Arson, Terrorist Threats: WHATSOEVER I was 35 miles away at A Shopping Mall (This was A Purpose to Harm That Shocks The Conscience.. (See Exhibits Attached

6.) Statue an Rules § 2255 Is The Catch All Rule of Category Includes only Assignments of Error That As This case Reveal Clear Fundamental Defects which ... Resulted in A Complete Miscarriage of Justice quoting Hill vs. U.S., 368 U.S. 424, 428 (1962.)

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 At Appendix A to The Petition is Attached From The Ninth Circuit Court of Appeals Actions.

[✓] The opinion of The United States District Court Eastern District of California is Appendix B Now Attached, From There Actions,

[✓] The opinions of The California Supreme Court were Also Denied For Any Relief As Has Been The Pattern; (All — Attached), State ORDERS, Appendix C

[✓] All Lawful Legal Preserved Pretrial Motions [AND] Exhibits of "Hard-Evidence"-"UnDisputable" Appendix D

JURISDICTION

[✓] FOR CASES FROM FEDERAL COURTS:

THE DATE ON WHICH THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT DECIDED MY CASE WAS August 6th 2020

[✓] NO PETITION FOR REHEARING WAS FILED.

[ ] THERE IS NO EXTENSION OF TIME TO FILE THE PETITION FOR THE WRIT OF CERTIORARI, THE CASE WAS DECIDED ON August 6th, 2020

[ ] PETITIONER INVOKES THE JURISDICTION UNDER 28 U.S.C. § 1254(1) OF THIS COURT..

[✓] FOR CASES FROM STATE COURTS

[ ] PETITIONER INVOKES THE JURISDICTION OF THIS COURT UNDER 28 U.S.C. § 1257 (a).

FROM THE GENESIS OF INCEPTION, OF THE WARRANT FOR ARREST; 4-24-2007 - ARRAIGNMENT to VERDICT, APPEALS, WRIT'S ETC. FOR YEARS, THIRTEEN YEARS AN SIX MONTHS TO DATE THE STATE COURTS HAVE TURNED A BLIND-EYE FOR THE TRUTH! THE U.S. CONSTITUTION AMEND. IV REQUIRES A JUDICIAL DETERMINATION OF PROBABLE CAUSE AS A PREREQUISITE TO EXTENDED RESTRAINT.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Preventing any Exculpatory an Material Evidence of Factual Innocence Direct Substantial Violations of my: Fourth Amendment Rights, My Fifth Amendment Rights; My Sixth Amendment Rights; and The Fourteenth Amendment to The United States Constitution, with a Fundamental Right of, Right, "Not" To Be Deprived of Life, liberty or "Evidence", Property, Cash, Monetary Instruments, Credit Cards Check Books Reducing This Petitioner to Zero Income Protected By The Innocent Owner Defense.

[Constitutional = Prejudicial Due Process - Making The Complaint on information Enclosed (By Exhibits) By Certified Superior Court Clerks Original Record on Bonifide Information Insufficient / Invalid By "FRAUD" to Support any of The Proceedings From Warrant Request - Arraignment - To Verdict - Sentencing.

(Search-an-Seizure Protection of The United States Const. Amend. IV

(Fundamental Rights to Procedural Due Process U.S Const. Amend. XIV, § I. The Fair Process, That Bars illegal Actions

(Constitutional Law, Substantive Due Process

(Constitutional Misconduct / Prejudice That [Substantially MADE SURE My Rights Never counted, or where Given By The People Engaged in misconduct intimately Associated with The Judicial Phase(s) of The Criminal Process.

(Cont Next Page