

*COVER PG. A

20-5827
No.

IN THE
SUPREME COURT OF THE UNITED STATES

CERTIORARI

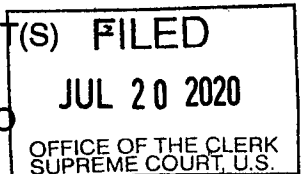
MICHAEL R. SPENGLER
(Your Name) PETITIONER

ORIGINAL

vs.

Alex Villanueva — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO



U.S. COURT OF APPEALS FOR THE 9th CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

MICHAEL R. SPENGLER
(Your Name)

#3984203-LA CO JAIL
(Address)

450 BAUCHET ST. L.A. CA 90012
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

I) According to the only available Federal Habeas book on the Lexis Nexis touchscreen here at the jail (by Matthew Bender)

28 USC 2241 - authorizes "other special circumstances creating a substantial likelihood that the pending state trial would irreparably injure or violate defendant's constitutional rights, or other "unusual" extraordinary circumstances that the statute or pending trial he is about to be prosecuted on is unconstitutional, or he is being abused by law enforcement who have him in custody.

Does this include jailhouse informant abuse and defendant's right to counsel (A/Massiah)?

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:

- ① Alex Villanueva - Sheriff Warden who has petitioner in custody: 211 W. Temple St. 8th Fl. L.A. CA 90012
- ② L.A. County District Attorney - 210 W. Temple Street L.A. CA 90012 § prosecuting criminal DA.
- ③ L.A. Superior Court - Dept. 111 - 210 W. Temple Street. L.A. CA 90012 - prosecuting criminal case

RELATED CASES

20-SS080 9 circuit/USDC # 2:19-cv-00259-DUC-SP/
20-SS242- 2:20 cv 00356 DUC SP

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CASES

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CONST. VI

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28 USC 2241

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OTHER

B.P.H. (BOARD OF PRISON HEARINGS)
(MORRISSEY)

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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.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A-C to the petition and is

☒ reported at (see Attached); 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 A-C to the petition and is

☒ reported at 2:19-CV-08259 DOC-SP; 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.

JURISDICTION

☐ For cases from federal courts:

The date on which the United States Court of Appeals decided my case was 5.7.2020.

☐ 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: 6.11.20, and a copy of the order denying rehearing appears at Appendix AC.

☐ 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 _____.
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

- 1) 28 USC 2241- pre-trial Habeas writ. (28 USC 2254 converted)
- 2) VI - RIGHT TO COUNSEL (MASSIAH)
- 3) V MIRANDA DOCTRINE / COERCION
- 4) WONG SUN'S IV

STATEMENT OF THE CASE

Procedural history: ON MAY 24 2014 petitioner & HIS CO-DEFENDANT FERNANDO GONZALES were arrested FOR THE 1/9/2013 187PC OF POMONA MICHAEL MEZA; CASE # KA105957. SAME COURT, AND WENT TO A JOINT (NON SEVERANCED) DEC. 2014 preliminary hearing AND trial / Sept. OCT. 2016 (NOT ONLY WAS he ACQUITTED but A JURY decided countless issues COLLATERALLY estopped) DURING THAT TRIAL DISTRICT ATTORNEY MARTIN BEAN (THE SAME ONE THEN & NOW RESPONDENT) MET WITH CUSTODY SHERIFFS & COORDINATED A "PERKINS OPERATION" WHERE AN INMATE ON 9.13.16 WAS SENT IN WITH A TAPE RECORDER TO ELICIT INCRIMINATING STATEMENTS AS THEIR GOVERNMENT "PERKINS AGENT" PERTAINING TO PETITIONER'S CASE & CRIMES, AN ALLEGED PLOT TO ELIMINATE A WITNESS IN THAT CASE, AND COERCING PETITIONER TO CONFESS TO HIS CRIMES & CASE BY "CONFIRMING" THAT A CREDIBLE THREAT OF VIOLENCE (PSYCHOLOGICAL COERCION) WAS COMING TO PETITIONER IF HE DID NOT. ON 8.31.16 PRIOR TO THE ELICITATION THE AGENT TURNED IN "NOTES" TO THE POLICE FROM DISCOVERY HIS COUNSELOR GAVE HIM AT preliminary hearing. THE RESPONDENTS chose NOT to use them IN KA105957 but have done so IN BA451330. ∴ PETITIONER'S VERDICT WAS AN 8-4 MISTRIAL ON 2nd degree & RESPONDENTS REFILED IN BA451330. PETITIONER BROUGHT QUESTIONS ON COLLATERAL ESTOPPEL AND CONSTITUTIONAL VIOLATION VIA HABEAS IN ANOTHER WRIT. FOR NOW THE INFORMANT IS AT ISSUE, & IS USED IN HIS REMAIL.

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REASONS TO GRANT REVIEW # 2

Jailhouse Informant: PG. 1

YOUNGER V. HARRIS 401 US 37, 27 L Ed 2d 669, 91 S. CT 746 (1971)

"where special circumstances justify federal intervention. The courts can exercise pre-trial habeas corpus jurisdiction over state proceedings where threats to plaintiffs (defendant Michael Spengler) federally protected rights. 46 ones that cannot be eliminated by his defense in a single prosecution.

CITING: USSC (SCOTUS'S) MASSIAH
MASSIAH V. UNITED STATES 377 US 201

"defendant's own incriminating statement's surreptitiously & directly obtained by an government agent. could not be used as evidence against him because he had been denied his right to VI counsel. citing:

CONSTITUTIONAL LAW > FUNDAMENTAL RIGHTS >
CRIMINAL RIGHTS > CRIMINAL PROCESS >
ASSISTANCE OF COUNSEL →

REASONS TO GRANT REVIEW # 2 JHI pg 2

#43 A defendant is denied the basic protections of the VI Amendment when there is used AGAINST him his own incriminating words which Agents deliberately elicited after he has been indicted and in the absence of counsel. This Applies to indirect and surreptitious interrogations as well AS those conducted in the Jailhouse *

* = Illinois v. Perkins (1990) 496 US 292, 299
110 S. Ct 2394, U.S. Henry (1980) 447
US 264, 270, 100 S. Ct 2183 + Maine v.
Moulton (1985) 474 US 159. Mere participation
is the functional equivalent to interrogation
even creating a situation likely to
produce incriminating statements violates
Massiah.

HN 4- The VI provides a Fundamental Federal Right in All criminal prosecutions, The Accused shall enjoy to have the Assistance of Counsel

HN 25- The Identity of the party who instigated the Meeting at which the Government obtained incriminating statements is not decisive to The USSC MASSIAH / Henry -

REASONS TO GRANT REVIEW #2 JHI

① - ^{around} 8.31.16 THE JAILHOUSE INFORMANT (J.H.I) WAS SEEN TAKING "NOTES" FROM DISCOVERY I HAD ON MY legal table I had photo copied & was going to send to my lawyer Mr. Lindar in preparation FOR TRIAL. I had stepped out ON A MEDICAL PASS & stupidly left them ON THE table.

THIS DISCOVERY WAS GIVEN TO ME DEC. 2014 BY MY PREVIOUS COUNSEL VINCENT OLIVER IN KAUSSST, A PRIVATELY PAID BY MY DAO ATTORNEY. THE REASON THAT I STATE MR. OLIVER GAVE THEM TO ME IS TO PROVE THE NOTES AS UNRELIABLE BECAUSE MR. OLIVER'S DISCOVERY DID NOT LIST MY NAME ON THEM; WHEN I WAS ^{later} a pro-per (briefly) AND THE D.A. GAVE ME THE DISCOVERY:

IT LISTED MY NAME IN RED INK THEREFORE PROVING THAT THE ONE'S NOT MARKED I HAD & HE STOLE IN WHICH IS UNRELIABLE AND ② THE POLICE/GOVT. SETUP A SITUATION TO WHERE THIS WOULD HAPPEN.

THE NEXT DAY 9.1.13 HE TURNED IN HIS NOTES & DISCOVERY TO POLICE IN THE JAIL. UNBEKNOWNST TO ME. & BPH ^{PAPERS} parole violation UNDER MORRISSEY V. BREWER (1972) 40US 471

~~15~~ 8

~~REASONS~~ REASONS to GRANT REVIEW p.4 #2 SHE

- (2) ON 9.13.16 THE POLICE/DA Met with him (DA by way of phone to police) within the JAIL to "wire him up" with A TAPE recorder - & INSTRUCTIONS. CALLING it A PERKINS OP. FOR ILLINOIS v. PERKINS (1990) 496 US 292. CALLING him A PERKINS AGENT (establishing MASSIAH AGENCY) HAD BOTH told petitioner OF A GREENLIGHT / Hit ON his LIFE AND petitioner furthermore had ALSO ASKED for his help IN removing it. A Quid pro quo; the J.H.I. AND PROSECUTION CLAIM that petitioner had ENGAGED the J.H.I. AND the J.H.I. had ALSO ENGAGED petitioner IN eliminating A WITNESS IN his VI MASSIAH Attached CASE (see IN re WILSON (1992) 304th 945, MAINE v. MOULTON (1985) 474 US 159, AND U.S. v. LENTZ 419 F. SUPP. 2d 794 witness elimination A MASSIAH SUPPRESSION) AND petitioner "IN order to get things done" MUST CONFESS" (ARIZONA v. FULMANT (1991) 499 US 299 & PERKINS 0300-303 barring COERCION).

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REASONS TO GRANT REVIEW P.S. #2 JHI
CITING U.S. v. Kimball (9th Circuit
1989) 884 F.2d 1274:

where The Appropriate remedy for a
VI violation (like the 4th WONG SUN v.
US 371 US 471 + 5th Arizona v. Fulimante)
is suppression of not only all evidence
of government misconduct but it's fruits."

THE YOUNGER ABSTENTION ENCOMPASSES
BIASBAD FAITH prosecutions - especially
structural bias when the state forum
is inadequate: Gernstein v. Pugh 420
US 103, 107-08, 43 L. Ed 2d 54
95 S. Ct. 854. + ARIZONA v. Fulimante

IE: petitioner was told by his current
trial counsel in BAHS1330 DALE
ATHERTON AND TRIAL JUDGE respondent
Henry J. Hall, ^{IN OPEN COURT} that he needs to
further explain this hit the JHI
placed on him. petitioner not
being a pro-per (in fact declared
by a M.H./trial court as not
competent to be one) AND
trial court refuses to suppress - AND

~~RE~~ REASONS TO Grant review p.6 #2 JHI

he was only pro-~~per~~ in this case
 Sept. - Dec. 2018 - Accomplishing NOTHING
 - he is egregiously A LAYMAN TO THE
 LAW relied ON his counsel & the
 trial court's directions JAN 2020
 prior to this Filing. petitioner
 explained that the "Hit" & it's CODE
 WORDS MANIFEST OUT OF A MASSIAIT
 VIOLATION AND a VERIFIED ARIZONA VS.
 Fulimante supra. PSYCHOLOGICAL CREDIBLE
 THREAT OF VIOLENCE pre-requisite.

petitioner explained that there were
 (2) issues. (1) he erroneously & delusionally
 thought (due to his ^{MULTIPLE SCLEROSIS} M.S./Milt) ^{AND} UNFOUNDED
 BAR/COURT COMPLAINT) ^{THAT} his counsel MADE a
 comment TO the D.A. his CODEFENDANT
 heard about the possibility of him testifying
 a subsequent meeting AND (2) He "did"
 tell his counsel about some intelligence
 OF SOME CRIMES / ^{related} CRIMES OF other people
 related to the ^{II} CASE to CURRY FAVOR to the
 Detective. - This turned out "true" making
 him AN ALLEGED INFORMER.

petitioner's trial court HAS WAIVED
 the VI RIGHT TO COUNSEL TO the TAPES

REASONS TO Grant REVIEW p.7 #2 JHI

simply because of "GIVING this explanation" (voluntary waiver to the right to counsel) as to why he thought he had a hit.

petitioner did nothing wrong. He was told by his trial court & counsel to explain the VI MASSIAH exploitation that he relied on, in an attempt to explain & suppress. By no means did he waive counsel or was warned.

2) A pre-requisite to Arizona v. Fulminante's psychological coercion is the showing of a credible threat of violence - described herein.

3) Any reference to the VI MASSIAH case a hit to or from it - the only remedy is a suppression. Absent structural defect & bias, the question is this: under 28 USC 2241 is a VI / this VI MASSIAH CLAIM (resolving LENTZ & INREWILSON to conform to MOULTON / MASSIAH) A cognizable CLAIM (Federally protected rights?) Should USDC/Courts ENJOIN?

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AGAIN YOUR HONOR'S. PETITIONER SENDS
AN IMPORTANT QUESTION, 28 USC 2241
(NOT POST TRIAL/POST CONVICTION HABEAS)
BUT A PRETRIAL HABEAS. IT AUTHORIZES
FEDERALLY PROTECTED RIGHTS AND THE
6TH AMENDMENT RIGHT TO COUNSEL/IS ONE ^{INFORMANT ABUSE}
OF THEM. AFTER RESOLUTION OF SEVERAL
CASE LAWS IN DISPUTE, IS 28 USC 2241
AUTHORIZED TO ISSUE A COGNIZABLE
MASSIAH & RIGHT TO COUNSEL CLAIM?
NO COURT HAS DECIDED THIS AND
AFFECTS A LOT OF CONCLUSION PEOPLE.
SAME GOES FOR JAILHOUSE INFORMANT ABUSE.
PLEASE RESOLVE THIS.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

MRS

Date: 8/29/20