

20-6059

No. _____

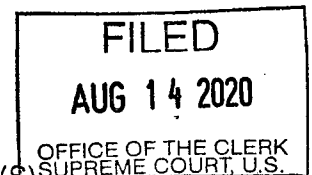
ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

PAUL EDWARD DURAN — PETITIONER
(Your Name)

vs.

MATTHEW CATE — RESPONDENT(S)



ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

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

Case # 1955304

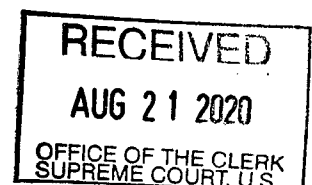
PETITION FOR WRIT OF CERTIORARI

PAUL EDWARD DURAN Attorney In Proper
(Your Name)

Po Box 3461, 3A-02-133
(Address)

Concoran California 93212
(City, State, Zip Code)

N/A
(Phone Number)



QUESTION(S) PRESENTED

#1) Did the Ninth Circuit Court error by not issuing a COA, when the Court had knowledge that none of Mr DURANS alleged Constitutional Violations have ever been refuted with fact in proper evidentiary hearing in State or Federal Court appellate proceedings.

"and or"

Is Mr Duran entitled a COA being that none of his alleged Constitutional Violations have every been adjudicated with fact through the required evidentiary hearing in State nor Federal Court Appellate proceedings, or whether this court is obligated to resolve the Controversy involved in this case and grant the proper relief of a complete reversal.

#2) When a claim of actual innocence is brought in habeas Corpus is a evidentiary hearing required in Federal review when it is evident that the State has never afforded a full and fair hearing, in order to refute that the conviction was not obtained by illegal acts of fraud committed by the government that has resulted in a miscarriage of Justice.

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) Governor of California Gavin Newsom

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TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Townsend v. Sain 372 US 293, 9 L Ed 2d 770 (1963) ...	
United States v. Leon 468 US 897 (1984)	
Illinois v. Krull	
United States v. Ceccolini 435 U.S. 268 283 (1978)...	
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STATUTES AND RULES

28 U.S.C § 1254	
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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 _____ to the petition and is

- ☐ reported at N/A; 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 N/A; 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 N/A; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the N/A 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 N/A.

☐ 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: May 15 2020, and a copy of the order denying rehearing appears at Appendix A.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including N/A (date) on N/A (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 N/A.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: N/A, 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 N/A (date) on N/A (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const., Amend. IV

U.S. Const., Amend. VI

U.S. Const., Amend. IVX

28 U.S.C. § 1254

28 U.S.C. § 2254

Fourth Amendment Exclusionary Rule
§ 20.08

STATEMENT OF THE CASE

On March 21, 2014 Petitioner Paul Edward Duran was Convicted by a jury trial in Los Angeles California for one carjacking, one attempted carjacking and one attempted Robbery. He was sentenced to 21 years in prison and has been timely Seeking appeal Contesting that the conviction and his imprisonment was unlawfully obtained in violation of the U.S. Const. •, "By acts of government Fraud".

Reasons For Granting The Petition

1) The ninth Circuit's disregard to acknowledge that none of Mr Duran's alleged Constitutional violations have ever been refuted with facts in a evidentiary hearing in state or Federal appellate court review and or whether Mr Duran is entitled a COA or the proper relief by this court's Jurisdiction of a complete reversal of his conviction to abate the unlawful imprisonment / miscarriage of Justice.

Argument:

The ninth circuit erred in not issuing a COA because it disregarded the standards set in *Townsend v. Sain* 372 U.S. 293 9 L Ed 2d 770 (1963) to the factual circumstances that are revolved around petitioner's case that none of the alleged Const. Violations raised by petitioner have ever been adjudicated with fact in state nor Federal Court proceedings in trial or Appellate review. Petitioner contends that his conviction was unlawfully obtained by acts of fraud by government agents in the State of California and his imprisonment of the conviction obtained was done so in violation

1
2 of the U.S. Const. Petitioner argues that
3 the ninth cir. erred on its denial to grant a
4 COA Feb 11, 2020 "see Appendix B" by stating that
5 jurist of reason would find it debatable whether
6 the petition states a valid claim of the denial
7 of a Const. right and that jurist of reason
8 would find it debatable whether the District
9 court was correct in its procedural ruling
10 this is because the court was made well
11 aware that the alleged constitutional
12 claims have never been adjudicated to fact
13 in a proper evidentiary in state or Federal
14 court level, therefore the facts to determine
15 whether the petition has stated a valid
16 claim of the denial of a Const. right can
17 never be assessed by the ninth circuit this
18 is because none of the alleged constitutional
19 violations raised by petitioner have ever been
20 refuted to be invalid in a evidentiary hearing
21 in Federal review. the same notion applies
22 to the ninth's circuit's erroneous denial
23 given on Feb 11 2020 stating that jurist of
24 reason would find it debatable whether the
25 district whether the District court was correct in
26 its procedural ruling because the district court
27 knows that a cursory review of the state
28 court ruling where no evidentiary hearing has
never been held would be a violation →

~~was a violation of the United States Constitution~~

of the United States Constitution. On direct appeal petitioner raised a total of 14 Contentions all of which were denied. After direct appeal in the State Appellate Ct. proceedings he sought review of his direct appeal in the California Supreme Court and was afforded no relief. Petitioner then filed a state habeas corpus raising 7 new contentions that were ^{not} raised on direct appeal.

One of those contentions was in regards to a violation of his right to be readvised of the Feratta inquiry when the prosecution sought to seek enhancements which caused a Sixth Amendment Violation to the U.S. Const. That's all revolved ^{around} a ^a Boykin V. Alamba 395 U.S. 238 (1969) violation.

The second contention that was raised in state habeas was in regards to a Brady V. Maryland 373 U.S. 83 (1963) violation which caused a Fourteenth Amend U.S. Const. Violation, when the Detective Robert Smith engaged himself in illegal acts of fraud by entangling the invoking of the Fourth Amendment Exclusionary Rule 820.08 with a suggestive six pack line up procedure which hindered petitioners ability to obtain a witness for his defence all of

which pretains to petitioners alleged
Contention of a preaccusatory delay
with "prejudice". On July 21, 2013
petitioner was originally arrested on
the instant conviction, Three days post
arrest he was released on a District Attorney
reject this occurred on July 24, 2013. Petitioner
argues that during his state trial Court
hearing in regards to his 1538.5 motion
to suppress the bench warrant involved
with the case the District Attorney engaged
himself in a Brady Violation by lying to the
facts of the District Attorney reject [RT 604]
after the jury trial and before sentencing
I filed a subpoena and served it in open court
to the District Attorney requesting information
being withheld of the fact that there was
a D-A-reject and the trial Judge quashed
the subpoena refer to the court reporter trans-
cripts of May 2, 2014, these transcripts are
not part of the record because the trial Court
refuses to send them to me in proper, this
issue can not be resolved as fact because
I have never been given a fair hearing.
Also I filed a contention in state habeas
review regarding Ineffective assistance of
Appellate counsel a sixth Amend. Violation

of the U S Const. Strickland V. Washington
466 U.S. 668 (1984) and the factual grounds
revolved around the ineffectiveness of
Counsel was in regards to Appellate Counsel's
failure to argue the fact that I was never
given the opportunity to verbally argue the
new trial motion per court rule before sente-
ncing and that the ground made in the new
trial motion was in regards to the pre-
accusatory delay with prejudice thus
making my allegation of a factual Miscar-
riage of Justice, ground for the recall
of summatter to be issued in my case, all of
which The Brady Violation and 4th Amend
claim involved with my case are all
related to the ineffective assistance
of Counsel and not to mention that my
appellate counsel only filed a no mar-
wendy brief on my behalf thus skewing my
need to demonstrate prejudice none of
these issues have ever been refuted to
not be false or true by fact in state or
Federal Court Appellate review.

Petitioner contends in argument
that he raised on direct Appeal and in
pretrial pases and one in court trial
1538.5 motion of a 4th Amend violation

1
2 revolved around the Detective's fraudulent
3 engaging to entangle suggestive I D
4 evidence "the six pack line up" with the
5 invoking of the Fourth Amendment Ex-
6 clusionary Rule § 20.08 [3] [b] #68 all in
7 bad faith to obtain a bench warrant and
8 to interfere with the free will violation of
9 a witness in this case. Not only did petit-
10 ioner raise the contention that the Detective's
11 bad faith acts are revolved around the alleged
12 4th Amend violation but also its in coinci-
13 dence with the 14th Amend., 6th Amend
14 violation being that it ultimately
15 precluded the introduction of evidence
16 in petitioner's jury trial and this alleged
17 unlawful and unconstitutional fact that
18 the Detective's bad faith invoking of the
19 Fourth Amend Exclusionary Rule § 20.08
20 in the manner that he did and since its
21 never be refuted in a proper evidentiary
22 hearing gives petitioner the ground to
23 contend that these issues consist of
24 the empirical evidence that is discussed
25 in Illinois v. Kruhl (1987) and United
26 States v. Leon (1984) which undermines
27 the Court's empirical judgments which
28 in all respects compels this court today

grant review and award the appropriate relief under the courts judicial discretion.

Certificate :

Attorney of Record In Pro Per Paul Duran

The Contents and or foregoing presented in this petition are true and correct under penalty and perjury to the best of my knowledge.

also The Writ is not being Sought ~~in~~ⁱⁿ any bad faith by petitioner

Respectfully
Submitted

Date 8.13, 2020 Attorney in Pro Per Paul E Duran

CD C# AT6464

C.S.P.C.

Po Box 3461 3802215

Corcoran CA 93212

Addendum

Petitioner contends that he needs to add the argument that his alleged 4th Amendment Violation has never been presented fully and fairly in his state court proceeding during trial in his in court motion to suppress 1538.5 because the D.A. also tied to the fact that there was even a bench warrant issued or involved with this case, the judge asked her whether there was a warrant involved with this case and she said no that I was arrested at the scene of the crime. see court R.T. page 604 605 also the judge left the evidence otherwise unobjectionable this precluded petition the opportunity for a full and fair hearing which is required under *Ston v Powell* (1976) otherwise Federal review is mandated and I've never been given a evidentiary hearing

in Federal review to determine
whether I have had the
opportunity for a full and
fair state hearing to litigate
my alleged 4th Amendment Violation

I am also contending that
the D.A. actions of being in
the 1538.5 hearing in trial
court consist of a Brady
Violation.

Respectfully

Submitted

Paul Rann

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Paul Edward Duran

Date: August 13 2020