

No. **20-7080**

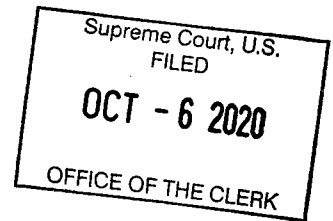
ORIGINAL

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

WASHINGTON, D.C. 20543



Jimmy ALEXANDER — PETITIONER
(Your Name)

vs.

PREMO, ACTING P.J. "ETAL" — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

SIXTH DISTRICT COURT OF APPEAL

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

PETITION FOR WRIT OF CERTIORARI

Jimmy ALEXANDER.
(Your Name)

P.O. Box: 2000
(Address)

VACAVILLE, CA. 95696-2000
(City, State, Zip Code)

N/A
(Phone Number)

QUESTIONS PRESENTED

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WITHOUT ANY WEAPONS, HOW DID PETITIONER COMMIT ANY CRIME?

1. ARE THE JUDGES RULINGS IN CONFLICT WITH SETTLED LAW THAT REQUIRE THIS COURT TO SET ASIDE PETITIONER'S CONVICTION? AND DOES THE PETITIONER DESERVE A DISMISSAL HEARING AND A PUBLIC APOLOGY FROM THE PROSECUTION?
2. AS REQUIRED FOR THE ONE STRIKE KIDNAPPING ALLEGATION, IS THE RECORD SUFFICIENT ENOUGH TO PROVE THAT JANE DOE'S MOVEMENT "SUBSTANTIALLY INCREASED" HER RISK OF HARM?
3. UNDER THE STATE AND FEDERAL CONSTITUTIONS, BECAUSE IT SERVES NO LEGITIMATE PENOLOGICAL GOAL, IS 175 YEARS TO LIFE CRUEL AND UNUSUAL PUNISHMENT?
4. DID THE TRIAL JUDGE ABUSE HIS POWER BY ALLOWING THE ALLEGED VICTIMS TESTIMONY TO GO UNCORRECTED, AND NOT BE EXCLUDED EVEN AFTER THE ALLEGED VICTIM ADMITS THAT SHE LIED ON THE DEFENDANT BECAUSE SHE WAS AFRAID ~~HOW~~ THAT THE VIDEO SURVEILLANCE EVIDENCE WOULD PROVE THAT SHE DID IN FACT LIE ~~BECAUSE~~ SHE DID NOT WANT TO BE ARRESTED FOR MAKING A FALSE REPORT?
5. DOES THE PEOPLE BELIEVE THAT IN ORDER FOR THE COURT TO FIND JANE DOE (ALLEGED VICTIM) NOT CREDIBLE IT WOULD HAVE TO REJECT THE IRRELEVANT EXPERT TESTIMONY OF DR. MINDY MECHANIC?

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6) DID THE TRIAL COURT CONDUCT A HEARING TO IDENTIFY AND EVALUATE WHETHER AN EXTRANEOUS INFLUENCE HAD RESULTED IN JUROR BIAS?

7) IF THE DEFENDANT ESTABLISHES PREJUDICE AS A RESULT OF EXTRANEOUS INFLUENCES IS THE DEFENDANT ENTITLED TO A NEW TRIAL?

8) DID PUBLICITY, EITHER BEFORE OR DURING THE TRIAL, PREJUDICE JURORS AND VIOLATE THE DEFENDANT'S RIGHT TO AN IMPARTIAL JURY?

9) WAS JURORS POTENTIALLY EXPOSED TO PREJUDICIAL PUBLICITY THAT THE COURT SHOULDVE MADE AN INQUIRY TO DETERMINE THE EXISTENCE OF ACTUAL EXPOSURE?

10) SHOULD THE JUDGE HAVE SEQUESTERED THE JURY AND PROVIDED CAUTIONARY INSTRUCTIONS TO SAFE GUARD AGAINST PREJUDICE?

11) DID THE TRIAL JUDGE HAVE A PERSONAL BIAS OR PREJUDICE THAT REQUIRED RECUSAL?

12) ~~HOW~~ HOW DID THE TRIAL JUDGE HAVE PERSONAL KNOWLEDGE OF DISPUTED EVIDENTIARY FACTS, AND WAS IT BECAUSE THE ALLEGED VICTIM'S BROTHER IS A LAWYER HIMSELF?

13) DID THE PROSECUTOR "PROSECUTE WITH EARNESTNESS AND VIGOR", OR DID HE USE "IMPROPER METHODS CALCULATED TO PRODUCE A WRONGFUL CONVICTION"?

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- 14) AND IF SO, WHY DID THE COURTS VIOLATE THE ^{PERJURED} DEFENDANTS RIGHTS BY ALLOWING THE TESTIMONY TO GO UNCORRECTED OR AND NOT BE EXCLUDED?
- 15) WHY WASN'T THE DNA EVIDENCE EXCLUDED, AND STILL ALLOWED, EVEN AFTER THE COURTS LEARNED THAT THE NON-SPERM DNA WAS CONTAMINATED DURING THE EXAM AND THE EXAMINER FOUND SEVERAL DIFFERENT MALE CONTRIBUTORS THAT WERE NOT THE DEFENDANTS DNA?
- 16) IF THE COURTS WOULD HAVE EXCLUDED THE VICTIMS FALSE TESTIMONY AFTER SHE ADMITTED TO LYING TO LAW ENFORCEMENT, WOULD THE JURY HAVE GAVE A VERDICT MORE FAVORABLE TO THE DEFENDANT?
- 17) DOES ANY OF THE PROFFERED EVIDENCE OR TESTIMONY ACTUALLY PROVE THAT THE DEFENDANT WAS IN FACT NOT GUILTY OF THE ACCUSED CRIMES?
- 18) DID THE COURTS SHOW MORE FAVOR TOWARD THE ALLEGED VICTIM BECAUSE THE ALLEGED VICTIM'S BROTHER IS A LAWYER AND AN ASSOCIATE THAT WORKS IN THE SAME PRACTICE AND IN THE SAME COUNTY AS THE JUDGE, THE PROSECUTOR, AND THE PUBLIC DEFENDER WHO TRIED THE DEFENDANTS CASE?
- 19) DID THE TRIAL COURTS KNOW ~~OR~~ THAT IT WAS CONVICTING
-

THE PETITIONER ON THE BASIS OF EVIDENCE SEIZED WITHOUT A WARRANT ON THE BASIS OF THE "INEVITABLE DISCOVERY" DOCTRINE, DESPITE THE LACK OF AN ON GOING INVESTIGATION?

20) IS IT IMPROPER CONDUCT AND PROSECUTORIAL MISCONDUCT WHEN IN THIS CASE THE TRIAL JUDGE ALLOWED THE PROSECUTOR TO EXPRESS PERSONAL OPINIONS ABOUT DEFENDANTS GUILT AND CREDIBILITY AND MADE POTENTIALLY UNFAIR AND IMPROPER REMARKS ABOUT THE DEFENDANT, THE DEFENSE COUNSEL, AND THE DEFENSE WITNESS DURING TRIAL?

21) DID THE PROSECUTOR COMMIT PROSECUTORIAL MISCONDUCT BY EXPRESSING OPINIONS ABOUT MATTERS REQUIRING PERSONAL EXPERIENCE AND EXPERT KNOWLEDGE?

22) WAS THE PROSECUTOR IN VIOLATION FOR COMMENTING ON THE DEFENDANTS PREVIOUS CONVICTIONS?

23) ARE THE TRIAL COURTS IN VIOLATION ~~OF P~~ FOR VIOLATING ~~RETTA~~ PETITIONERS DUE PROCESS RIGHTS BY ALLOWING THE PROSECUTOR TO VOUCH FOR THE CREDIBILITY OF THE GOVERNMENT WITNESS USING IRRELEVANT EXPERT TESTIMONY, AND ALLUDE TO HIS OWN PERSONAL INTEGRITY AND OATH OFFICE TO BOLSTER THE GOVERNMENT'S CASE?

24) DID THE PROSECUTOR MAKE REMARKS LIKELY TO INFLAME THE PASSION OF THE JURORS THAT LEAD TO CONVICTION FOR AN IMPROPER REASON?

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✓ THE PETITIONER ON THE BASIS OF EVIDENCE SEIZED WITHOUT A WARRANT ON THE BASIS OF THE "INEVITABLE DISCOVERY" DOCTRINE, ~~DES~~ DESPITE THE LACK OF ~~AND~~ AN ON GOING INVESTIGATION? ~~AND~~

25) CAN THE TRIAL COURTS PERMIT THE PROSECUTION TO REVEAL EVIDENCE TO THE JURY TRIAL OR DURING IN LIMINE, THAT WAS OBTAINED OR SEIZED WITHOUT A ~~PROPPER~~ PROPER WARRANT?

26) WAS PETITIONERS CONVICTION OBTAINED AS THE RESULT OF A POLICE INVESTIGATION CONDUCTED IN VIOLATION OF PETITIONERS RIGHT TO COUNSEL? SEE BUTLER V. MCKELLAR, 494, U.S. 407 (1990).

27. DID THE TRIAL COURTS VIOLATE PETITIONERS RIGHT TO DUE PROCESS WHEN THE DEFENDANTS CONVICTION RESULTED FROM AN IDENTIFICATION MADE DURING AN UNCONSTITUTIONALLY SUGGESTIVE LINE UP? SEE U.S. V. WADE 388 U.S. 218 (1967); GILBERT V. CALIFORNIA, 388 U.S. 263 (1967).

28. SHOULD THE TRIAL COURTS HAVE PERMITTED EVIDENCE THAT WAS OBTAINED AND INTRODUCED AGAINST PETITIONER AS A RESULT OF QUESTIONING BY POLICE THAT CONTINUED AFTER PETITIONER STATED THAT HE WISHED TO CONSULT WITH AN ATTORNEY, IN WHICH THE OFFICERS DENIED PETITIONERS RIGHT

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TO COUNSEL DURING INTERROGATION? SEE *FARE V. MICHEALL*,
442 U.S. 707 (1979) (ALSO REVIEW PETITIONERS INTERROGATION
INTERVIEW AND BODY CAMERA EVIDENCE) APRIL 17, 2017.

29) WHY DID THE TRIAL COURTS ALLOW THE PROSECUTOR TO KNOW-
INGLY PRESENT FALSE TESTIMONY AND DID NOT CORRECT
THE TESTIMONY THAT HE KNEW TO BE FALSE, BECAUSE THE
ALLEGED VICTIM LIED AND THE PROSECUTOR PRESENTED IT TO
COURT WITHOUT CORRECTING IT?

30) THE KIDNAPPING INSTRUCTION CONVEYED THE LEGALLY INSUFFE-
ICIENT THEORY ASPORTATION MAY BE ACCOMPLISHED BY TRICKERY?

31) SHOULD THE DEFENDANT HAVE BEEN CONVICTED FOR LARCENY
OR ROBBERY IF THE ALLEGED VICTIM ADMITTED THAT
SHE GAVE THE DEFENDANT HER CELL PHONE WILLINGLY AND
WAS NOT FORCED BY THE DEFENDANT TO GIVE UP HER CELL-
PHONE?

32) UNDER WHAT COMMON LAW AND MODERN STATUTES WAS 2nd
DEGREE ROBBERY COMMITTED WITHOUT A WEAPON AND A CELL
PHONE GIVEN TO DEFENDANT BY ALLEGED VICTIM IN WHICH THE
ALLEGED VICTIM TESTIFIED UNDER OATH?

33) ~~DO~~ DID ADMITTING EXPERT TESTIMONY ON THE PSYCHOLOGY
OF TRAUMA VICTIMS WITHIN COMMON EXPERIENCE AND SIGNALING
THE EXPERT'S BELIEF THE VICTIM WAS ASSAULTED AS SHE CLAIMED,
DEPRIVE THE DEFENDANT OF A FAIR TRIAL? ✓

34) WAS FORCE OR INTIMIDATION USED IN THE ATTEMPT TO COMMIT THEFT OR ROBBERY OR WAS THE EVIDENCE INSUFFICIENT? (7)

~~TO COUNSEL DURING INTERROGATION? SEE FARE V.~~

~~MICHEALL 442 U.S. 707 (1979). (REVIEW OFFICER'S BODY CAMERA EVIDENCE)~~

35. DID THE TRIAL JUDGE PERMIT THE PROSECUTION TO USE EVIDENCE ~~TO CONVICT~~ THAT WAS OBTAINED AS THE RESULT OF A SEARCH CONDUCTED WITHOUT A WARRANT, PROBABLE CAUSE, OR GOOD FAITH TO INTENTIONALLY CONVICT THE DEFENDANT? SEE U.S. V. LEON 468 U.S. 897 (1984).

36. ARE THE CHARGES WHICH RESULTED IN PETITIONER'S CONVICTION ENACTED BY A GRAND JURY SELECTED IN A RACIALLY DISCRIMINATOR MANNER? SEE VASQUEZ V. HILLERY, 474, U.S. 254 (1986).

37. THE STATE FAILED TO DISCLOSE ALL EVIDENCE FAVORABLE TO THE ACCUSED IN VIOLATION OF BRADY, ~~BRADY V. BRADY~~ SEE BRADY V. MARLAND, 373 U.S. 83 (1963).

38. THE TRIAL COURTS ARE IN VIOLATION BECAUSE THE STATE FAILED TO DISCLOSE "BRADY" EVIDENCE THAT WAS IN THE POSSESSION OF INVESTIGATIVE AGENCIES TO WHICH THE STATE HAD ACCESS, INCLUDING THE ALLEGED VICTIMS FALSE REPORTING THAT LEAD UP TO THE ALLEGED VICTIM PERJURY DURING TRIAL? SEE KYLES V. WHITLEY, 514 U.S. 429 (1995)

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39) SHOULD THE COURTS ALLOW THE DATA TO BE RETESTED DUE TO MULTIPLE MALE DATA FINDINGS AND POSSIBLE COURT AMINATION? (REVIEW THE DNA RECORDS FROM EVIDENCE). (REVIEW DATA TYPING CHART).

40) WHY DID THE TRIAL COURTS ALLOW THE PROSECUTOR TO USE EVIDENCE FROM THE DISMISSED CASE SS170618A TO CONVICT THE PETITIONER IN CASE # 17C00182A? SS170618A-17C00182A.

41) THE DNA EVIDENCE WAS DISMISSED IN CASE # SS170618A. THEN USED AGAIN TO CONVICT THE PETITIONER, IN CASE # 17C00182A, WHY WASN'T THE DNA EVIDENCE EXCLUDED OR PRESENTED DURING IN LIMINE MOTION?

42) THE ORIGINAL CASE FOR 17C00182A WAS DISMISSED UNDER A DIFFERENT CASE NUMBER ON JULY 17TH 2017. ^{WASNT} SS170618A, WHY ~~WAS~~ PETITIONER RELEASED ON JULY 17TH 2017, AND WHY WAS THE CASE REFILED ON AUGUST 11TH 2017? THE CASE WAS DISMISSED DURING JULY TRIAL.

43) DID JEOPARDY ATTACH AFTER CASE NUMBER SS170618A WAS DISMISSED ON THE TRIAL DATE JULY 17TH 2017, AND REFILED AS A DIFFERENT CASE NUMBER ON AUGUST 11TH 2017 WITCIT CAUSED A DOUBLE JEOPARDY OR AN ILLEGAL PROCEDURE ISSUE?

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:

PREMO, ACTING P.J.

ELIA, J.

MIHARA, J.

CHIEF JUSTICE - CANTIL-SAKAUYE.

ANDREW G. LIU.

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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 ~~3~~^{N/A} 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 N/A 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 A to the petition and is

☐ reported at ~~INDEX TO APPENDICES / SIXTH DISTRICT COURT OF APPEAL~~^{N/A}; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the LOWER court appears at Appendix B to the petition and is

☐ reported at ~~INDEX TO APPENDICES / THE SUPREME COURT OF CALIFORNIA~~^{N/A}; 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 ~~MAV 6, 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: N/A, and a copy of the order denying rehearing appears at Appendix N/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. N/A A N/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 JULY 8TH, 2020.
A copy of that decision appears at Appendix C.

☐ 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 N/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. N/A A N/A.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED
THE EIGHTH AMENDMENT PROHIBITS SENTENCES THAT SERVE NO LEGITIMATE PENAL PURPOSE. (CAL. CONST., ART. I, § 28(a) [PUBLIC SAFETY IS A "GOAL OF HIGHEST IMPORTANCE"]; § 1170, SUBD. (a) ["THE PURPOSE OF SENTENCING IS PUBLIC SAFETY ACHIEVED THROUGH PUNISHMENT, REHABILITATION, AND RESTORATIVE JUSTICE"]; PEOPLE V. OCHOA (2001) 26 CAL. 4TH 398, 463 ["BOTH DETERRENCE AND RETRIBUTION ARE LEGITIMATE PURPOSES OF PUNISHMENT"]; PEOPLE V. WARNER (1970) 20 CAL. 3D 678, 679 ["THE PARAMOUNT CONCERN IN SENTENCING MUST BE THE PROTECTION OF SOCIETY"] A SENTENCE THAT NO HUMAN COULD CONCEIVABLY COMPLETE SERVES NONE OF THESE GOALS AND SERVES NO RATIONAL LEGISLATIVE PURPOSE UNDER ANY LEGITIMATE THEORY OF PUNISHMENT. PEOPLE V. DELOZA (1998) 18 CAL. 4TH 585, 600, CONC. OPN OF MOSK, J.)

THE SIXTH AMENDMENT RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL. THE SIXTH AMENDMENT TO THE UNITED STATES CONSTITUTION AND ARTICLE I, SECTION 15 OF THE CALIFORNIA CONSTITUTION GUARANTEE CRIMINAL DEFENDANTS EFFECTIVE ASSISTANCE OF DEFENSE COUNSEL. (CUYLER V. SULLIVAN (1980) 446 U.S. 335, 344; PEOPLE V. LEDESMA (1987) 43 CAL. 3D 171, 216-218.) THAT GUARANTEE GOES UNFULFILLED WHEN DEFENSE COUNSEL OMITTS AN OBJECTION OR REQUEST IT WOULD BE NORMAL FOR A COMPETENT DEFENSE ATTORNEY TO MAKE AND THE OMISSION UNDERMINES THE FAIRNESS OF THE DEFENDANTS TRIAL.

(STRICKLAND V. WASHINGTON (1984) 466 U.S. 668, 687.)

THE CONSTITUTIONAL ADEQUACY OF COUNSEL'S REPRESENTATION IS REVIEWED INDEPENDENTLY. (IN RE CORDERO (1988) 46 CAL.3D 161, 181; PEOPLE V. JONES (2010) 186 CAL. APP. 4TH 216, 235-236, QUOTING STRICKLAND, SUPRA, P. 698.)

MISCARRIAGE OF JUSTICE. THE CALIFORNIA CONSTITUTION PROVIDES THAT JUDGMENT MAY NOT BE OVERTURNED ON APPEAL "UNLESS, AFTER AN EXAMINATION OF THE ENTIRE CAUSE, INCLUDING THE EVIDENCE, THE COURT SHALL BE OF THE OPINION THAT THE ERROR COMPLAINED OF RESULTED IN A MISCARRIAGE OF JUSTICE." (CAL. CONST., ART. VI, § 13. ACCORD, EVID. CODE, § 353 [ERRONEOUS ADMISSION OF EVIDENCE ONLY REQUIRES A NEW TRIAL WHERE IT RESULTED IN A MISCARRIAGE OF JUSTICE].)

A "MISCARRIAGE OF JUSTICE" IS ROUTINELY DESCRIBED AS OCCURRING WHEN THE REVIEWING COURT IS CONVINCED THAT IN THE ABSENCE OF THE ERROR, THERE IS A REASONABLE PROBABILITY OF A DIFFERENT RESULT.

(COLLEGE HOSPITAL, INC. V. SUPERIOR COURT (1994) 8 CAL. 4TH 704, 715; PEOPLE V. ^{WATSON} ~~WATSON~~ (1956) 46 CAL. 2D 818, 836-837.) HOWEVER, THIS DOES NOT MEAN THAT THE REVIEWING COURT MERELY SATISFIES ITSELF THAT THE EVIDENCE JUSTIFIES THE VERDICT.

STATEMENT OF THE CASE

ON NOVEMBER 7, 2017, A MONTEREY CA. JURY CONVICTED PETITIONER, JIMMY ALEXANDER OF THE FOLLOWING NINE FELONY OFFENSES AND ONE COUNT OF 2nd DEGREE ROBBERY AGAINST ALLEGED VICTIM "JANE DOE" WHICH WHOM'S IDENTITY HAS BEEN CONCEALED THAT WAS ALLEGED TO HAVE HAPPENED ON OR BETWEEN THE EARLY EVENING OF APRIL 15, 2017 AND APPROXIMATELY 1:00 A.M. THE FOLLOWING MORNING:

- (COUNT 1) KIDNAPPING TO COMMIT ORAL COPULATION, RAPE AND SODOMY (§ 209, subd. (6));
 (1);
 (COUNTS 2 AND 3) FORCIBLE RAPE (§ 261, subd. (a)(2));
 (COUNTS 4 AND 5) FORCIBLE SODOMY (§ 286, subd. (c)(2)(A));
 (COUNTS 6 THROUGH 9) FORCIBLE ORAL COPULATION (§ 288a, subd. (c)(2)(A)); AND
 (COUNT 10) 2nd DEGREE ROBBERY (§ 211). (1 CT, PP. 167-192.)

THE JURY FOUND PETITIONER ALEXANDER WAS NOT ARMED WITH A KNIFE (§ 12022, subd. (b) AND § 12022.3, subd. (a)) DURING ANY OFFENSE NOR WAS PETITIONER ALEXANDER FOUND GUILTY OF POSSESSION OF A KNIFE, THE JURY FOUND THAT NO KNIFE OR ANY WEAPON WAS INVOLVED IN THE CASE AT ANY TIME, AND THE JURY FOUND ALL OF THE ALLEGED VICTIM'S, (JANE DOE'S) KNIFE ALLEGATIONS NOT TRUE, AND THE JURY FOUND IT NOT TRUE THAT ANY KNIFE OR ANY WEAPON WAS EVER INVOLVED IN THE ALLEGED CRIMES, OR ANY OFFENSE, NO WEAPON AND NO KNIFE WAS PRESENT AT THE ALLEGED CRIME. (1 CT, PP. 167-192.)

THE JURY FOUND THE PETITIONER ALEXANDER GUILTY OF KIDNAPPING "JANE DOE" TO COMMIT COUNTS 2 THROUGH 9 AND THAT PETITIONER MOVED "JANE DOE" A SUBSTANTIAL DISTANCE INCREASING THE RISK OF HARM TO "JANE DOE" WITHOUT ANY KNIFE OR WEAPON INVOLVED IN THE CASE (§ 667.8, subd. (a) [9-YEAR ENHANCEMENT]; § 667.6, subds. (a), (b), (d) & (e) [ONE STRIKE LAW]). (1 CT, PP. 169-190.)

AT A SUBSEQUENT BENCH TRIAL, THE COURT FOUND PETITIONER ALEXANDER SUFFERED A 24 YEAR OLD PRIOR JUVENILE 2nd DEGREE ROBBERY ADJUDICATION (1 CT, PP. 212-213) AND SUBSEQUENTLY STRUCK THE 24 YEAR OLD JUVENILE 2nd DEGREE ROBBERY PRIOR IN THE INTEREST OF JUSTICE (§ 1385; PEOPLE V. SUPER COURT (ROMERO) (1996) 13 CAL. 4TH 497, 529-530).

THE COURT SENTENCED PETITIONER ALEXANDER TO 175 YEARS TO LIFE WITH THE POSSIBILITY OF PAROLE IN STATE PRISON: SEVEN CONSECUTIVE TERMS OF 25-YEARS-TO-LIFE UNDER ONE STRIKE LAW. (§ 667.6, subd. (a).) THE COURT IMPOSED CONCURRENT TERMS OF 25-YEARS-TO-LIFE FOR COUNT 5 (SODOMY) AND THE LOW TERM OF 3 YEARS FOR 2nd DEGREE ROBBERY (COUNT 10). THE COURT INITIALLY "STAYED" (§ 654) THE LIFE TERMS FOR THE AGGRAVATED KIDNAPPING (COUNT 1) AND THE 9-YEAR ENHANCEMENTS (§ 667.8) ON COUNTS 2 THROUGH 9.

TO CONTINUE, TURN PAGE OVER →

(CONTINUED)

(2CT, PP. 426-427; 11RT, PP. 3015-3017.) THE COURT IMPOSED FINES OF \$12,051 IN FINES AND PENALTY ASSESSMENTS. (2CT, P. 428; 11RT, P. 3018.) THE SUPERIOR COURT OF CALIFORNIA MONTEREY COUNTY, SALINAS DIVISION HAS REDUCED ALL FINES AND FEES BUT HAS NOT SENT THE COURT ORDER TO THE CALIFORNIA DEPARTMENT OF CORRECTIONS SO THE STATE CAN STOP CHARGING PETITIONER'S ALEXANDER'S ACCOUNT FOR RESTITUTION. THE COURTS HAVE NOT UPDATED THE DEPARTMENT OF CORRECTIONS IN WHICH THIS COULD POSSIBLY RENDER MDOT.



REASONS FOR GRANTING THE PETITION

THE REASON FOR GRANTING THE PETITION IS BECAUSE THE SUPERIOR COURTS THE COURT OF APPEALS AND THE CALIFORNIA SUPREME COURT TURNED A BLIND EYE TO THE INFRINGEMENT OF PETITIONERS GUARANTEED CONSTITUTIONAL RIGHTS OF BOTH STATE AND FEDERAL. THE PETITIONER SHOULD BE ENTITLED TO RELIEF DUE TO THE FACT THAT AS A MATTER OF LAW THE JUDGES RULINGS ARE NOT WITHIN THE BOUNDS OF SETTLED LAW, REASONING, AND LOGIC. THE RECORD SHOWS THAT FOR THE ARGUMENTS PETITIONER PRESENTED IN THE MOTIONS AND WRITS, THE VIOLATED CONSTITUTIONAL RIGHTS IS WHAT JUDGES DISREGARDED, WHICH ENTITLED PETITIONER TO RELIEF. HOWEVER, WITHOUT AN EVIDENTIARY HEARING OR AN ORDER TO SHOW CAUSE PETITIONER'S CONVICTION IS IMPERMISSIBLY ALLOWED TO STAND WHEN THE CONVICTION IS BASED ON WITHHOLDING OF MATERIAL EVIDENCE BY THE PROSECUTION'S FALSE TESTIMONY THAT WAS NOT CORRECTED, AND INSUFFICIENCY OF EVIDENCE.

CALIFORNIA PENAL CODE SECTION 1385(a)(2018), STATE "(T)HE JUDGE... EITHER OF HIS OR HER OWN MOTION OR UPON THE APPLICATION OF THE PROSECUTING ATTORNEY, AND IN FURTHERANCE OF JUSTICE, ORDER AN ACTION TO BE DISMISSED. ALSO, THE STATUTORY AUTHORITY PROVIDES USEFUL MEANS TO CORRECT DEFECTS OF FORM OR SUBSTANCE IN CRIMINAL PROCEEDINGS. SEE, DEPT. OF TRANSP. V. PUB. CITIZEN, 541, U.S. 752, 763 (2004) (A COURT'S RULING CAN BE SET ASIDE UPON SHOWING THAT IT WAS "OTHERWISE NOT IN ACCORDANCE WITH LAW.") IN THIS CASE, MY ORIGINAL TRIAL JUDGE OR THE PROSECUTION UPON APPLICATION, ~~DIS~~ DISMISSED THE CASE ON JULY 17, 2017 IN FURTHERANCE OF JUSTICE. THE ORIGINAL CASE NUMBER WAS SS170618A, THE TRIAL COURTS DID NOT ORDER MY RELEASE UPON THE DISMISSAL WHICH I WAS BASICALLY ACQUITTED ON ALL CHARGES. ONCE I WAS ACQUITTED, THE PROSECUTION CAN NOT REFILE CHARGES A MONTH LATER WITHOUT RELEASING ME. IT ALSO CAUSED A DOUBLE JEOPARDY VIOLATION. THE SECOND TRIAL JUDGE CONVICTED ME AFTER ALL CHARGES HAD BEEN DISMISSED ON JULY 17, 2017 AFTER A SPEEDY TRIAL. THE SAME EXACT CHARGES ~~WHERE~~ WERE REFILED ON AUGUST 11, 2017. BUT I WAS NEVER RELEASED, THEN I WAS CONVICTED ON THE SAME CASE FOR AND THE SAME CHARGES ON MARCH 2nd, 2018, FOR A CRIME I DID NOT EVEN COMMIT. SEE ATTACHED MINUT ORDERS FROM THE SUPERIOR COURT OF CALIFORNIA COUNTY OF MONTEREY SALINAS CALIFORNIA.

(CONTINUED)

THERE ARE THREE SEPERATE MINUTE ORDERS ATTACHED TO PETITION. (REVIEW)
A MISARRIAGE OF JUSTICE IS OCCURRING BECAUSE THE TRIAL COURT AND COURT OF APPEAL
HAS FAILED TO GRANT THE RELIEF PETITIONER IS ENTITLED TO IN ACCORDANCE
OF SETTLED LAW AND STATUTORY AUTHORITIES. PETITIONER HAD FILED
A NEW TRIAL MOTION SOON AFTER THE RECEIPT OF THE NEWLY DISCOVERED
EVIDENCE, JUDGE ANDREW G. LUI, DENIED THE MOTION (CASE #17CR001822)
AND IS IN VIOLATION OF MULLER V. TANNER (1969) 2 CAL. APP. 3D 446.
462. HOWEVER, NO DOCUMENTS WERE PROVIDED TO PROVE THAT THE
ORIGINAL TRIAL JUDGE WAS NOT AVAILABLE. SEE, Id. ("a) MOTION
FOR NEW TRIAL SHALL BE HEARD AND DETERMINED BY THE JUDGE
WHO PRESIDED AT THE TRIAL.") (JUDGE RUSSELL D. SCOTT) (QUOTING
CODE OF CIVIL PROCEDURE, SECTION 661.) ~~IN REG~~
IN REGARDS OF THE NEWLY DISCOVERED EVIDENCE, PETITIONER NOTICED THAT
THE PROSECUTOR VIOLATED HIS OBLIGATED DISCOVERY DISCLOSURE WHICH PET-
ITIONER RAISED IN THE NEW TRIAL MOTION AND WRITS OF HABEAS CORPUS.
HENCE THE JUDGES RULED "OTHERWISE NOT IN ACCORDANCE OF LAW."
DEPT. OF TRANS P. 541 U.S. AT 763.
FALSE TESTIMONY WAS INTENTIONALLY PROVIDED BY THE PROSECUTION EYE
WITNESS THAT WAS MATERIAL TO THE JURY, BUT THE COURTS AND
PROSECUTOR FAILED TO MAKE CORRECTIONS. PETITIONER HAS ARGUED
THIS MATTER IN THE NEW TRIAL MOTION AND PETITION FOR WRIT
OF HABEAS CORPUS FILED IN THE COURT OF APPEAL, AND THE
SUPERIOR COURT OF CALIFORNIA, (CASE #17CR001822), WHICH BOTH
WERE DENIED, AS A MATTER OF LAW, THE JUDGES RULINGS IS
OTHERWISE NOT IN ACCORDANCE WITH LAW. Id.
PETITIONER HAS DEMONSTRATED IN THE NEW TRIAL MOTION AND PET-
ITION FOR WRIT OF HABEAS CORPUS FILED INTO THE CALIFORNIA SUP-
ERIOR COURT, AND COURT OF APPEAL, THAT THERE IS INSUFFICIENT
EVIDENCE TO SUPPORT THE CHARGE CONVICTED OF, AS A MATTER
OF LAW. ACCORDINGLY, THE JUDGES RULINGS IS "OTHERWISE NOT
IN ACCORDANCE WITH LAW". Id.
FINALLY, IN SUPPORT OF THE ARGUMENTS THAT WERE PRE-
SENTED TO THE ~~COURTS~~ COURTS THERE HAS BEEN CITED
CALIFORNIA SUPREME COURT AUTHORITIES SHOWING THAT PET-
ITIONER IS ENTITLED TO RELIEF, BUT THE SETTLED LAW
BEEN DISREGARDED. ALSO, THAT OF THE FEDERAL LAW IS BEING
OVER LOOKED. THEREFORE, THE JUDGES DENIALS ARE IN CON-
FLICT WITH THE ESTABLISHED LAW OF BOTH STATE AND FED-
ERAL.
FOR ALL STATED, WITHIN THIS CASE IT IS EVIDENT THAT THE JUDGES
RULINGS ARE IN CONFLICT WITH SETTLED LAW THAT REFLECTS A CLEAR
MISARRIAGE OF JUSTICE. THEREFORE, PETITIONER'S CONVICTION SHOULD BE
SET ASIDE IN THE INTEREST OF JUSTICE. THIS IS WHY THE COURTS
SHOULD GRANT THIS PETITION. THANK YOU.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Jimmy ALEXANDER.

Date: 10/6/2020