

No. 20-8151

ORIGINAL

Supreme Court, U.S.
FILED

MAY 11 2021

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

MARCUS WILLIAMS, — PETITIONER
(Your Name)

vs.

STATE OF CALIFORNIA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

Marcus Williams

(Your Name)

P.O. Box 8457

(Address)

Lancaster, California 93539

(City, State, Zip Code)

(Phone Number)

RECEIVED

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SUPREME COURT, U.S.

QUESTION PRESENTED FOR REVIEW

1. What degree of formality is necessary before hearsay statements contained within a forensic testing report which connect an accused to the testing results are considered "testimonial"?

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:

RELATED CASES

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Bullcoming v. New Mexico (2011) 564 U.S. 647
Crawford v. Washington (2004) 541 U.S. 36
Davis v. Washington (2006) 547 U.S. 813
Melendez-Diaz v. Massachusetts (2009) 557 U.S. 305
Strickland v. Washington (1984) 466 U.S. 668
Williams v. Illinois (2011) 567 U.S. 50
People v. Lopez (2012) 55 Cal.4th 569
People v. Sanchez (2016) 63 Cal.4th 665, 670-671
People v. McCary (1985) 166 Cal.App.3d 1,8
People v. Lewis (1975) 13 Cal.3d 349, 358

STATUTES AND RULES

1271

OTHER

Sixth Amendment Right to Effective Assistance
Sixth Amendment Confrontation Rights

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JURISDICTION

For cases from **federal courts**:

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

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).

For cases from **state courts**:

The date on which the highest state court decided my case was 3-17-2021. A copy of that decision appears at Appendix D.

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. Fundamental-fairness Constitutional provisions**
- 2. Sixth Amendment Right to Effective Assistance**
- 3. Sixth Amendment Confrontation Rights**

STATEMENT OF THE CASE

A jury found defendant Marcus D. Williams guilty of assault with a semiautomatic pistol and unlawful possession of a firearm, and found true defendant personally used a firearm during the commission of the assault. The trial court further found true a prior strike allegation. Defendant was sentenced to 27 years to life plus a consecutive 14 years.

On appeal, defendant raises several ineffective assistance of counsel arguments, argues the trial court erred in finding his prior juvenile conviction constituted a strike, and asserts his one-year enhancement under Penal Code section 667.5 must be striken. He further asserted the cumulative effect of the errors in this case deprived him of due process and his right to a fair trial. The People concede the one-year enhancement must be striken because it was dismissed prior to judgment but assert defendant's remaining contentions have not merit. The Petitioner disagreed and sought a Petition for Review in the California Supreme Court, and the question presented for review was "what degree of formality is necessary before hearsay statements contained within a forensic testing report which connect an accused to the testing results are considered "testimonial"?

The Petitioner accept the People's concession to strike the one-year enhancement. In all other respects, the California Supreme Court affirm.

REASONS FOR GRANTING THE PETITION

The United States Supreme Court has held that the Sixth Amendment's confrontation right bars the admission at trial of testimonial hearsay statements unless the declarant is unavailable to testify and the defendant had a prior opportunity for cross-examination. (Crawford v. Washington (2004) 541 U.S. 36, 59.)

In People v. Lopez (2012) 55 Cal.4th 569 (Lopez) was based on an unreasonable determination of the facts, this Court considered whether the inclusion of a defendant's name in a chart entitled "chain of custody log sheet" in a report, which was the sole link between blood test results and the defendant at trial, constituted testimonial hearsay. (Id. at 582, 584.) In holding that the notations in the chart were not made with sufficient solemnity to constitute a testimonial statement, the opinion first cited the informality of the notations themselves. (Id. at 584.) Neither the testing analyst or the laboratory assistant whose initials appeared in the chart signed, certified, or swore to the truth of the page. (Id.)

Second, the chart showed only minimal entries under various categories of the chart and the chart itself was labeled "FOR LAB USE ONLY." (Id.) Based upon these facts the presumption of correctness was rebutted, Lopez found that the notations were "not prepared with the formality required by the high court for testimonial statements" (Id.)

The Lopez holding was fact-dependent. Petitioner case turn on the fact that an expert not "not prepared with the formality required by Crawford v. washington can be used just to save the States money. It's saying that someone could practice law without a bar card. That's funny but lacks any foundation from with to draw a rational inference of guilt beyond a reasonable doubt. Review

is necessary to provide State Courts with a Crawford v. Washington (2004) 541 U.S. 36, 59 set of principles by which to determine whether a specific portion of a forensic report is sufficiently "formal" to trigger Confrontation Clause concerns.

Petitioner is entitled to an evidentiary hearing on this critical fact of "Fundamental-Fairness" because the law holds that it is unreasonable for a State court to resolve credible, disputed issues of material fact without holding an evidentiary hearing or resolving the dispute on the basis of sworn declarations. See, Taylor v. Maddox, 366 F.3d 992 (9th Cir. 2004). Similarly, State court factual findings are not entitled to a presumption of correctness when the State court fact-finding procedure was fundamentally flawed. Hurles v. Ryan, 752 F.3d 768 (9th Cir. 2014).

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CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Date: May 11th, 2021

DECLARATION OF MARCUS WILLIAMS

I, MARCUS WILLIAMS, declare under penalty of perjury of the laws of the United States of America that the following is true and correct:

1. I am not a deputy attorney general with the California Attorney General's Office and not admitted before the state courts of California and the United States Supreme Court. I represent Petitioner in this case, People v. Marcus Williams Court of Appeal Case No. C090246, Sacramento County Case No. 18FE001615.

2. On March 17, 2021, I requested a copy of the California Supreme Court "Order" from Gabriel Bassan so I can prepare a Cert. On March 29, 2021, he noted that the California Supreme Court did not issue an opinion when it denied our petition for review. See, Attorney Letter Appendix B. I contact him again with no luck.

3. Later, I contact the California Supreme Court requesting a copy of the "Order" to file Cert. I met them with negative results.

4. On February 17, 2021, the California Supreme Court denied my "Petition for Review." On the court's own motion, the remittitur issued January 22, 2021, was ordered recalled because a petition for review was pending. See, Court of Appeal Order.

Executed this 10th day of May, 2021 at Los Angeles, California.

/s/

MARCUS WILLIAMS
Attorney for Petitioner