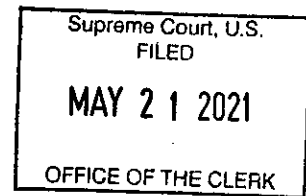


20-8163

No.

IN THE

Supreme Court of the United States



David Patkins,

Petitioner(s)

v.

Rebeca Piantini

Respondent(s)

On Petition For Writ Of Certiorari
To The Supreme Court of California

PETITION FOR WRIT OF CERTIORARI

David C. Patkins
CDC# T-73612
Correctional Training Facility
P.O. Box 705
Soledad, CA 93960

QUESTION(S) PRESENTED

PURSUANT FEDERAL (AND STATE) CONSTITUTION DUE PROCESS/PETITION GUARANTEES ON THE RIGHT OF "MEANINGFUL" ACCESS TO THE COURTS :

- (1) ON NON-FRIVOLOUS ACTIONS, DOES THE RIGHT OF MEANINGFUL ACCESS TO THE COURTS AUTHORIZE CERTAIN COURTS TO DISREGARD INDIGENT PARTY REQUESTS FOR AVAILABLE COURT RESOURCES WHERE THAT DISREGARD IS IN CONFLICT WITH EXISTING CONSTITUTIONAL LAW ESTABLISHING THAT COURTS ARE TO APPLY DISCRETIONARY REVIEW NOT ONLY TO REQUESTS FOR COURT RESOURCES BUT TO SATISFY THE REQUIREMENT ON THE QUESTION/RIGHT TO MEANINGFUL ACCESS; OR
- (2) IS THE RIGHT OF MEANINGFUL ACCESS SATISFIED AT THE LIMITING OF NON-FRIVOLOUS PAPERS BEING FILED; AND/OR
- (3) IS THE RIGHT OF MEANINGFUL ACCESS TO AVAILABLE COURT RESOURCES/TOOLS APPLY TO THE WEALTHY AND NOT TO THE INDIGENT AND/OR IMPRISONED.

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:

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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 _____ 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☐ is unpublished.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 United States district 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☐ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix B/C 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 STATE SUPERIOR court appears at Appendix E 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 _____.

☐ 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 4-14-21.
A copy of that decision appears at Appendix A.

☐ 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

PURSUANT FEDERAL (AND STATE) CONSTITUTION 14TH AMENDMENT, THE
STANDARD/PRECEDENT ON THE PETITION RIGHT(S) TO "MEANINGFUL"
ACCESS TO THE COURTS TO PROSECUTE NON-FRIVOLOUS ACTIONS
(APPENDIX (APP) F, Pg 1-3 ; APP. G, Pg 2, 3, 5).

STATEMENT OF THE CASE

ON 10-9-2002, RIVERSIDE COUNTY, CALIFORNIA, I, DAVID C. PATKINS, WAS CONVICTED TO MURDER, AND CONVICTION UPHELD FOR COMMITTING 4-28-01 SHAKING BABY SYNDROME (S.B.S.) (APP. I, EX. 5, Pp 5, 13-14). PATKINS, KNOWING HE DID NOT COMMIT S.B.S., DILIGENTLY SOUGHT TO UNDERSTAND HOW AN S.B.S. DIAGNOSIS IS MEDICALLY VALIDATED ACCORDING TO THE - AUTOPSY - INJURIES OF 4-28-01.

IN 2014 PATKINS FINALLY UNDERSTOOD THAT, ON 10-1-02, DEFENDANT - PEDIATRICIAN - REBECCA PIANTINI, BY SUPERIOR KNOWLEDGE, INTRODUCED FALSE EVIDENCE OF NUEROLOGY INJURIES, MISLEADING THE JURY TO INJURE PATKINS BY INFLECTING A FALSE S.B.S. MURDER CONVICTION (APP. I).

AFTER SOME BACK, FORTH, AND BACK IN THE SUPERIOR COURT, SAN BERNARDINO, CALIFORNIA, PATKINS PROPERLY FILED AND SERVED 12-28-17 FIRST AMENDED INTENTIONAL TORT FOR FRAUD, DECEIT BY INTENTIONAL CONCEALMENT, AND CONCEALMENT OF INCOMPETENCE (FRAUD) AGAINST PIANTINI (APP. I; SEE APP. C, Pp 2-7 - PROCEDURAL HISTORY). PIANTINI REFUSED TO ANSWER THE COMPLAINT - AN INFERENCE OF WRONG DOING.

ON 7-26-19 THE SUPERIOR COURT - HONORABLE, B. MCCARVILLE - DENIED DEFAULT JUDGMENT, RULING NOT ONLY THAT PATKINS FAILED TO PROVIDE A COURT REQUIRED NUEROLOGY EXPERT/ CAUSE OF ACTION SUBSTANTIATION (APP. E, Pp 6, 22, 38-39, 40-41; CF. APP. C, Pp 6, 7 - PATKINS "INAPPROPRIATE EXPERT TESTIMONY") BUT DENIED INDIGENT PATKINS COURT RESOURCE MOTIONS PURSUANT CODE OF CIVIL PROCEDURE (CCP), § 585(b), AND/OR CAL. EVID. CODE, § 730 FOR APPOINTMENT OF THAT REQUIRED EXPERT SUBSTANTIATION, AND/OR COUNSEL (APP. E, Pp 39, 45-46), RULING THERE IS

"NO AUTHORITY", NOR "LEGAL BASIS" FOR EITHER — "YOUR ON YOUR OWN"; "IT'S YOUR RESPONSIBILITY" (APP. E, PP 45-46, 52-53; BUT SEE, SMITH V. OGBUEHI (2019) 38 CAL. APP. 5TH 453).

ON APPEAL, ON 12-16-20, THE COURT OF APPEAL (C.O.A.) FOLLOWED SUIT — THAT THERE'S NOT "A SINGLE CASE" AUTHORIZING "COURT-APPOINTED COUNSEL" (APP. B, PP 2, FN.1; BUT SEE SMITH V. OGBUEHI (2019) 38 CAL. APP. 5TH 453 AT 468-469, CITING (AMONG MANY) APOLLO V. GYAAMI (2008) 167 CAL. APP. 4TH 1468).

MOREOVER, YET INCLUSIVE, THE C.O.A. COMPLETELY DISREGARDED NOT ONLY PATKINS APPEAL GROUND OF DENIAL OF THE RIGHT TO MEANINGFUL ACCESS TO THE COURTS PURSUANT FEDERAL AND STATE CONSTITUTION DUE PROCESS (APP. F.) BUT APPEAL GROUND ON ABUSE OF DISCRETION REGARDING CCP, § 595(b) / CAL. EVID. CODE, § 730 MOTIONS FOR COURT RESOURCES (CF. SMITH, 38 CAL. APP. 5TH AT 477, FN12). PATKINS PROVIDED THE C.O.A. A WILLING NEUROLOGY EXPERT — AS REQUIRED BY THE SUPERIOR COURT (APP. E, PP 6, 22, 38-39, 40-41) — WHICH WAS ALSO COMPLETELY DISREGARDED (APP. I, EX 3; CF. APP. G, PP 4-5).

THE C.O.A. CROSSED ADDITIONAL DISCRETION BOUNDARIES WHEN IT :

- ANSWERED PATKINS COMPLAINT, ADVOCATING AS PIANTINIS DEFENSE COUNSEL;
- RAISED NEW MATERIAL ARGUMENTS ON 12-16-20 OP (APP. B) NOT RAISED WITHIN 10-21-20 T.O. (APP. C.), DEPRIVING PATKINS A RESPONSE ON APPEAL (APP. D);
- COMMITTING MATERIAL MISSTATEMENTS, AND OMISSIONS OF FACTS AND EVIDENCE ON SAID NEW ARGUMENTS AND AGAINST THE COMPLAINT MEDICAL EVIDENCE, FACTS AS A WHOLE, TO THEN RELY ON SAID CUMULATIVE ERRORS AS JUSTIFICATION TO DENY DEFAULT JUDGMENT,

AND DISPOSE OF PATKINS COMPLAINT AND RIGHT TO PROSECUTE BONA-FIDE CIVIL ACTION.

— FOR EXAMPLE, AND EXACTLY TO WHAT PATKINS WILLING NEUROLOGIST (APP. I, EX 3) WOULD SUBSTANTIATE TO PIANTINI'S FRAUD:

1.

AT T.O., PAGE 10-13 (APP. C), THE C.O.A. ADVOCATED: BECAUSE FORENSIC PATHOLOGIST (F.P.), S. TRENKLE, ON 5-2-01 AUTOPSY, DID NOT PROVE THE CHILD IS NOT A VICTIM OF S.B.S., OR SAY IT WAS "INCORRECT" TO THINK S.B.S. OCCURRED, THEREFORE, THE C.O.A. FELT IT'S RIGHT TO INJECT ADDITIONAL FINDINGS OF S.B.S. MATERIAL EVIDENCE TO AUTOPSY, FN1, AS "AGREED" TO BY F.P., TRENKLE.

THE C.O.A., IN FACT, KNEW AND ADMITS TRENKLE, REPEATEDLY, REINED BACK FROM DIAGNOSING S.B.S. ACCORDING TO THE "ONLY EVIDENCE" ON AUTOPSY (APP. I, TRIAL TRANSCRIPTS (T.T.) 462) — THAT TRENKLE DID, IN FACT, EXPRESS IT WAS "INCORRECT" TO THINK S.B.S. OCCURRED (APP. C, Pp 12):

- "YES, YES, THIS IS A CASE OF BLUNT-FORCE INJURY" (APP. C, Pp 11; APP. I, T.T. 457);
- "THE SKULL FRACTURE HAPPENED AT THE SAME TIME AS THE FATAL BRAIN INJURY" (APP. C, Pp 11; APP. I, Pp 10, FN2);
- "ALL THE INJURIES CAN BE EXPLAINED BY BLUNT-FORCE INJURY" (APP. I, T.T. 478, 462);
- "CORRECT", AS A RESULT OF THAT BLUNT-FORCE, THE INFERIOR BLEEDING STARTED TAKING PLACE" (APP. I, T.T. 477).

FOOTNOTE 1

OUTSIDE OF HIS AUTOPSY EVIDENCE DIAGNOSIS, AND IN CONTEXT, TRENKLE REASONED SHAKING WAS POSSIBLE (APP. I, T.T. 457) BECAUSE OF THE FACT TRENKLE "CANNOT SAY THE BABY WAS NOT SHAKEN" (APP. I, T.T. 478) — NOT BECAUSE THERE'S AUTOPSY EVIDENCE TO DIAGNOSE S.B.S.

IT'S THIS MATERIAL DISTINCTION THE C.O.A. MISSTATES, AND PREJUDICED PATKINS PRIMA FACIE CASE OF FRAUD, E.G., "TRENKLE SAID THAT "THERE MAY HAVE BEEN MORE THAN ONE" BLUNT-FORCE STRIKE" (APP. C, Pp 11; cf. APP. I, T.T. 461). BUT THE C.O.A. DIDN'T ABUSE, OR MISREPRESENT THAT VEIN OF UNKNOWN POSSIBILITY TO PIANTINIS BENEFIT AS "AGREED" AUTOPSY EVIDENCE OF ADDITIONAL ABUSE (APP. C, Pp 12).

END FOOTNOTE 1

THE C.O.A. KNOWS TRENKLE'S AUTOPSY EVIDENCE EXTENDS NO FURTHER THAN TRENKLE CANNOT SAY, OR SAY NOT THAT SHAKING OCCURRED — "WHETHER, WHETHER THERE WAS..." (APP. C, Pp 11), BECAUSE THE C.O.A. CONCEDES TRENKLE'S "ONLY EVIDENCE" DIAGNOSIS IS "ONE EVENT, BEING A BLOW OR A FALL, WOULD BE SUFFICIENT TO ACCOUNT FOR ALL [4-28-01] DAMAGE" (APP. I, Pp 9-10, T.T. 462; APP. C, Pp 11, 12 — "SAME TIME"; APP. B, Pp 14-15).

TRENKLE NEVER "AGREED" TO S.B.S. EVIDENCE (APP. C, Pp 11, 12, 13, 15; APP. B, Pp 11, 13, 15, 16-17).

ACCORDING TO TRENKLE, S.B.S. EVIDENCE, CAUSE OF INJURY/IES, OR DIAGNOSIS IS NOT FOUND "ANYWHERE IN MY REPORT" (APP. I, T.T. 477), NOR WITHIN TRENKLE'S TRIAL TESTIMONY (id); YET, THE C.O.A., REPEATEDLY, ADVOCATED TO MATERIAL CONTRADICTIONS, AND THE DISREGARD OF FORENSIC PATHOLOGIST, TRENKLE'S SAME TIME "FATAL BRAIN INJURY" DIAGNOSIS (APP. C, Pp 11) — THAT PEDIATRICIAN PIANTINIS'S S.B.S. "FATAL BRAIN INJURY" IS AUTOPSY EVIDENCE

AGREED TO BY TRENKLE (APP. C, PP 10-11), THUS, S.B.S. BRAIN INJURIES ACCORDING TO PIANTINI DOES NOT "IMPLY A FACTUAL BASIS THAT DOES NOT EXIST" (ID, PP 12), RESULTING IN THE PREJUDICIAL DISPOSAL OF PATKINS ACTION BECAUSE PATKINS "DID NOT ADEQUATELY PLEAD FRAUD/MIS-REPRESENTATION" (ID, PP 13, 15; APP. B, PP 15, 17 - ELEMENT DEFICIENT).

2.

BUT PIANTINI'S S.B.S. "FATAL BRAIN INJURY" (APP. C, PP 11, 12), I.E., "BLOOD INSIDE THE FRONTAL CORTEX OF THE BRAIN" (APP. I, EX. 5, PP 5, 13-14) IS EXACTLY WHAT PATKINS COMPLAINT ARGUES IS FRAUD AND DOES NOT EXIST ACCORDING TO AUTOPSY (APP. I, PP 16 AT II; APP. G, PP 7 AT I), LEAVING ONLY TRENKLE'S SAME TIME BLUNT-FORCE "FATAL BRAIN INJURY" (APP. C, PP 11), I.E., A "MENINGES" INJURY (APP. I, PP 8 - TWO BRAIN INJURIES).

PRE-AUTOPSY CAT SCAN SUGGESTIONS OF "INTRAPARENCHYMAL HEMORRHAGE IN THE LEFT FRONTAL LOBE" (APP. B, PP 12-13; APP. I, EX. 16, PP 3; EX. 24, PP 1300 - "PARENCHYMA"; EX. 42, PP 3, IMPRESSION), OTHERWISE KNOWN AS DIFFUSE AXIAL INJURY (D.A.I.), I.E., "THE TEARING IN THE BRAIN, ITSELF" (APP. I, T.T. 333-334, 357, 363) IS PIANTINI'S S.B.S. FACTUAL BASIS, AND S.B.S. "FATAL BRAIN INJURY" (APP. C, PP 11, 12).

PIANTINI TESTIFIED SAID FRONTAL CORTEX D.A.I. WAS "DISCOVERED DURING THE AUTOPSY (APP. I, PP 16; T.T. 357) - INTENTIONALLY CONCEALING FROM JURY THE FACT OF ITS NON-EXISTENCE ON AUTOPSY; HERICE, PATKINS REQUEST, AND COURT DENIAL/DISREGARD FOR WILLING NEUROLOGY EXPERT (APP. I, EX. 3).

THE C.O.A. PURPOSELY, PRESUDICALLY RESTRICTED ITS DEFAULT JUDGMENT REVIEW FROM CONNECTING PIANTINI'S (NON-EXISTENT) FRONTAL CORTEX

D.A.I. TO FRAUD — "ITS UNCLEAR" — (APP. B, Pp 12; APP. G, Pp 8-9), YET ADMITS PIANTINI'S REPORT CONCLUDES AN S.B.S. "INTENTIONALLY INFLICTED INJURY" (APP. B, Pp 12; APP. I, EX 16, Pp 3), I.E., PIANTINI'S TEARING IN THE BRAIN, ITSELF, "AS IT MOVES BACK AND FORTH" (APP. I, T.T. 333-D.A.I.).

ACCORDING TO PIANTINI, S.B.S. IS KNOWN AS "ABUSIVE HEAD TRAUMA" (A.H.T.) (APP. I, T.T. 327), OF WHICH THE C.O.A. CONCEDES IS PIANTINI'S REPORT CAUSE OF DEATH, I.E., THE RECORDED "INTRAPARENCHYMAL HEMORRHAGE" / FRONTAL CORTEX D.A.I. (APP. I, EX 16, Pp 3) — PIANTINI'S FATAL BRAIN INJURY — IS "THE TEARING IN THE BRAIN, ITSELF, AS IT MOVES BACK AND FORTH" (APP. I, T.T. 333) TO PIANTINI'S REPORT, CONCLUDING: "... A.H.T. THAT RESULTED IN DEATH (APP. I, EX 16, Pp 3).

IN OTHER WORDS, IN ADVOCATING A DEFENSE FOR PIANTINI AND ARGUING PATKINS COMPLAINT — RE: D.A.I. — IS UNCLEAR, THE C.O.A. RULED: "PLAINTIFFS ASSERTION THAT THE INTRAPARENCHYMAL HEMORRHAGE DID NOT EXIST IS CONTRADICTED BY A RADIOLOGY REPORT"; CONCLUDING PIANTINI "DID NOT IMPLY A FACTUAL BASIS THAT DOES NOT EXIST" (APP. B, Pp 12-13).

BUT PATKINS DISREGARDED EVIDENCE DEMONSTRATES THAT THE C.O.A. REVIEW PURPOSELY OMITTED MATERIAL EVIDENCE TO DENY PATKINS MEANINGFUL ACCESS TO THE COURTS, I.E.,

- THE CT SCANS, AND SAME RADIOLOGISTS RELIED BY THE C.O.A, REVEAL THE INTRAPARENCHYMAL, RATHER, MAY BE SUBARACHNOID BLOOD, I.E., THAT A FRONTAL CORTEX D.A.I. NEVER EXISTED (APP. I, Pp 17; EX 42, Pp 3-4, FINDINGS).
- TRENKLE, ON AUTOPSY MICROSCOPIC EXAMINATION, DID NOT FIND INTRAPARENCHYMAL BLOOD AT THE "FRONTAL CORTEX", BUT ADMITS FINDING "SUPERFICIAL SUBARACHNOID HEMORRHAGE" (APP. I, Pp 17; EX.

23, pp 9, 10-12), i.e., D.A.I. NEVER EXISTED.

- THE TRIAL RECENT OF EXPERT, ALAN SONNE: ON DIRECT, SONNE DECLARED BLOOD "IN THE BRAIN SUBSTANCE ITSELF", i.e., A FRONTAL PARENCHYMA D.A.I. (APP. I, Pp 17; T.T. 190; EX. 5, Pp 5 - "BLOOD INSIDE THE FRONTAL CORTEX"); THEN, ON CROSS, SONNE RECENTED: "NO"; THE FRONTAL AREA BLOOD IS NOT "ACTUALLY IN THE BRAIN"; ITS "ABOVE THE BRAIN, OUTSIDE THE BRAIN" (APP. I, Pp 18; T.T. 201), i.e., A FRONTAL CORTEX D.A.I. NEVER EXISTED.

THE C.O.A. ABUSED DISCRETION BY RESTRICTING ITS EVIDENCE REVIEW AND DENYING MEANINGFUL ACCESS, PURPOSELY PUSHING KNOWN HALF TRUTHS (- AS POST-AUTOPSY EVIDENCE) AT "THE RADIOLOGY REPORT" (APP. B, Pp 12-13; CP. APP. I, Pp 17, FN. 3), TO THEN KILL PATKINS COMPLAINT, AND DAY IN COURT - ACTUAL INJURY.

3.

THE C.O.A. 12-16-20 OP RAISED MATTER NOT WITHIN THE 10-21-20 TO, NOT ONLY DENYING PATKINS ACCESS WITH RESPONSE TO COA MATERIAL MIS-STATEMENTS (APP. D, A) BUT THE COA RELIED ON SUCH FALSE EVIDENCE TO DISPOSE OF PATKINS NON-FRIVOLOUS ACTION.

AT OP, PAGE 11-12 (APP. B), THE COA, IN MISREPRESENTING A FOUNDATION THAT TRENKLE "AGREED" WITH PIANTINI'S S.B.S. FATAL BRAIN INJURY, ALSO ADVOCATED:

- (1) THAT TRENKLE "AGREED", AND TESTIFIED TO "FACTS" THIS CHILD IS A VICTIM OF "S.B.S.", "THE BABY'S HEAD IS MOVING BACK AND FORTH...";
- (2) THAT TRENKLE AGREED "THE VICTIM SUFFERED SUBDURAL HEMATOMAS"

- AS IN PLURAL, A MASS SHEARING OF SUBDURAL BRIDGING VEINS;
- (3) THAT THE "EXTENSIVE RETINAL HEMORRHAGING" IS "AGREED" TO ACCORDING TO PIANTINIS FACTUAL BASIS CAUSE OF TORN, SHEARED, AND BURSTED RETINA VESSELS AT SHAKING.

THE RECORD EVIDENCE BEFORE THE COA (-AND THIS COURT) SUBSTANTIATES SAID IS FALSE EVIDENCE RELIANCE:

- (1) TRENKLE SIMPLY DOES NOT DIAGNOSE S.B.S., NOR TESTIFY TO FACTS THIS "BABY'S HEAD IS MOVING BACK AND FORTH" - AS UNCITED BY THE COA (APP. B, Pp 11; cf. APP. I, T.T. 480-485; EX. 23, Pp 10).
- (2) TRENKLE TESTIFIED TO ONE SUBDURAL BLEED (APP. I, Pp 20, AT III; APP. G, Pp 15, AT III) - A FRACTURE SITE "TEAR OF A SMALL BLOOD VESSEL" AS CORROBORATED BY DR. SOMNE, CT SCANS, AND RADIOLOGISTS (APP. I, T.T. 203-204), AND TESTIFIED THAT ALL 4-28-01 INTRACRANIAL BLEEDING - THE SUBDURAL AND SUBARACHNOID - IS A RESULT COMPARIBLE TO AN "ANEURISM" (APP. I, Pp 21; T.T. 454-455).

ACCORDING TO CT SCANS, THERE'S EITHER MULTIPLES OF SHEARING, AND TEARING OF SUBDURAL VEINS - PIANTINIS S.B.S. FACTUAL BASIS (APP. I, Pp 20; E.G., EX. 24, Pp 1337 - "PETECHIAE" HEMORRHAGES), OR A SINGLE ORIGIN AS ACCORDING TO TRENKLE, AND THE OTHER EXPERTS INTERPRETING THE CT SCANS - IT CANT BE BOTH - AND THE COA PURPOSELY FAILS TO CITE WHERE TRENKLE "AGREED THE FACTS THAT UNDERLIE PIANTINIS OPINION EXISTS, I.E., [MASS PETECHIAE] SUBDURAL HEMATOMAS".

AGAIN, WE FALL BACK TO THE COA COMPLETE DISREGARD OF NOT ONLY THE APPEAL GROUNDS ON CCP, § 585(b) / CAL. EVID. CODE, § 730 MOTIONS, AND DENIED RIGHT TO MEANINGFUL COURT ACCESS, BUT IN PROVIDING THE

THE COA A WILLING NEUROLOGY EXPERT (APP. I, EX3) TO SUBSTANTIATE THAT A MASS SHEARING OF SUBDURAL VEINS ON CT SCANS IS FALSEHOOD (CF. APP. I, EX. 10), HENCE, PIANTINI'S S.B.S. FACTUAL BASIS AND CONCLUSION IS FRAUD. AND,

(3) PIANTINI'S FACTUAL BASIS CAUSE OF THE RETINAL HEMORRHAGING (R.H.) IS THE TEARING, SHEARING, AND BURSTING OF RETINA VESSELS AT SHAKING (APP. I, P. 13 AT I; T.T. 335-336, 382-383; APP. G, P. 12 AT II).

TRENKLE'S FACTUAL BASIS CAUSE OF THE "DIFFUSE R.H. HERE" IS VN-CONTROLLED INTRACRANIAL SWELLING, PRESSURE (V.I.S.P.) (APP. I, T.T. 480-481), AND TRENKLE'S FACTUAL BASIS CAUSE OF THE U.I.S.P. IS [A] SINGLE EVENT, BLUNT-FORCE TRAUMA (APP. I, T.T. 480-481, 462).

PIANTINI - A PEDIATRICIAN - IS REPRESENTING TO JURY HER NEUROLOGY RELIANCE IS ACCORDING TO FORENSIC PATHOLOGIST, TRENKLE/AUTOPSY, AND ALL THE MEDICAL RECORDS (APP. I, T.T. 348, 363, 371).

PIANTINI KNEW, ACCORDING TO ALL THE MEDICAL RECORDS, THAT R.H. WASN'T DISCOVERED TILL OVER 16 HOURS AFTER TRENKLE'S DIAGNOSED BLUNT-FORCE OCCURRENCE, AND AFTER U.I.S.P. BUILD-UP, BUT INTENTIONALLY CONCEALED FROM JURY THE FACT OF TRENKLE'S NEUROLOGY DIAGNOSIS (APP. I, Pp 15-16).

PIANTINI'S SUPERIOR KNOWLEDGE OF SHEARING, RIPPED, AND BURSTED RETINA VESSELS AT S.B.S. - YET KNOWING, CONCEALING THAT NO BLEEDING IS OCCURRING FOR OVER 16 HOURS TILL ITS DISCOVERY - REVEALS FALSE EVIDENCE, AND PIANTINI IMPLYING AN S.B.S. FACTUAL BASIS THAT DOES NOT EXIST.

IN FACT, AND TO PUSH RELIANCE ON FRAUD, PIANTINI INTENTIONALLY MISREPRESENTED TO JURY THAT TRENKLE'S U.I.S.P. IS NOT THE CAUSE OF THIS R.H. (APP. I, T.T. 396).

AGAIN, THE COA MISSTATES, AND OMITTS MATERIAL EVIDENCE AND FACTS TO SUPPORT THE CONCLUSION THE FRAUD ELEMENT JUSTIFIABLE RELIANCE "WAS NOT WELL PLED" (APP. B, Pp. 14-15).

AT OP, PAGES 14-15 (APP. B), AND CONCEDING TRENKLE DOES NOT AGREE TO AN S.B.S. DIAGNOSIS BASED ON THE AUTOPSY EVIDENCE, THE C.O.A. REASONED: "IF PIANTINI HAD NEVER TESTIFIED THAT THE VICTIM WAS SHAKEN, THE JURY STILL HAD EVIDENCE OF INTENTIONAL INFLICTION" - "AN INTENTIONAL BLUNT FORCE IMPACT".

PATKINS CHILD HAD NO "EXTERNAL PHYSICAL INJURY" (APP. I, T.T. 340, 418), AND PATKINS DOES NOT DISPUTE THAT A PROSECUTION FABRICATED "HEIGHT OF 18 TO 24 INCHES WOULD NOT HAVE CAUSED THE INJURIES" (APP. B, Pp 14);

BUT, THE COA ABUSED DISCRETION WHEN ADVOCATING FALSE EVIDENCE THAT TRENKLE TESTIFIED THIS CHILDS SKULL FRACTURE / 4-28-01 INJURIES RESULTED FROM A FORCE EQUIVALENT TO A FALL "GREATER THAN 10 TO 20 FEET", HENCE, "INTENTIONAL INFLICTION" (APP. B, Pp 14; APP. C, Pp 11). TRENKLE'S 10, EVEN UP TO 30 FOOT FATALITY DISTANCE IS FROM A "STUDY", APPLIED, "WELL", TO ADULTS (APP. I, T.T. 472-473) - NOT PATKINS CHILD, WHOM REVEALED NO EXTERNAL INJURY.

IN FACT, PATKINS TRIAL COUNSEL RAISED NO DEFENSE WHATSOEVER TO OFFER TRENKLE ON "FACTORS" OF ACCOUNTABLE "FORCE" (APP. I, T.T. 443), AND TRENKLE WAS LEFT OPEN ON THE ACCOUNTABILITY FACTOR OF A FALL NO GREATER THAN 5 FEET (APP. I, T.T. 450) - A DEPRIVATION OF EFFECTIVE REPRESENTATION -

NONE. THE. LESS, IF PIANTINI HAD NEVER TESTIFIED, TREMKLE'S AUTOPSY DIAG-
NOSIS LEFT THE JURY/DELIBERATIONS THE OPTION, AND "REASONABLE INTER-
PRETATION" BASED ON ALL THE EVIDENCE (- EXCLUDING S.B.S. FRAUD) (APP. I, T.T.
576-577 - CALJIC NO.S 2.01, 2.02), TO DETERMINE WHETHER "A BLOW OR A
FALL" OCCURRED (APP. I, T.T. 462).

IN FACT, TREMKLE POINTS TO NO EVIDENCE THAT A BLOW RATHER THAN A FALL
OCCURRED (APP. I, T.T. 400-485) - THE C.O.A. INJECTED FALSE EVIDENCE OF FORCE.

KNOWING EVIDENCE IS MATERIAL IF THERE IS "ANY REASONABLE LIKELIHOOD
THAT THE FALSE TESTIMONY COULD HAVE AFFECTED THE JUDGMENT OF THE JURY"
(GIGLIO V. U.S. (1972) 405 U.S. 150, 153-154), PATKINS, TO DEAF EARS, PLED THE
JUSTIFIABLE RELIANCE ELEMENT, I.E.; IF THE CRIMINAL COURT OF APPEAL
UPHELD THE MURDER CONVICTION, JUSTIFIABLY RELYING ON PIANTINI'S S.B.S.
FRAUD/DECEIT, MISREPRESENTED AS "INDICATED ON AUTOPSY" (APP. I, EX. 5, Pp 5,
13-14), THEN, REASONABLY, THE JURY JUSTIFIABLY RELIED ON PIANTINI'S S.B.S.
FRAUD TO INFLICT PATKINS INJURY OF A MURDER CONVICTION (APP. G, Pp 10-
12, FN. 1; APP. D, A).

5.

TREMKLE, ON AUTOPSY MICROSCOPIC EXAMINATION, WAS CLEAR: THERE IS "NO"
"FRACTURE", "BREAK", "CRACK", NOR "HAIRLINE" ON THE RIGHT FEMUR (APP. I,
Pp 23 AT IV, T.T. 467; APP. G, Pp 18 AT IV).

ON 10-1-02 PIANTINI INTENTIONALLY CONCEALED SAID FROM THE JURY (APP. B,
Pp 15-16) TO INTENTIONALLY MISREPRESENT, THAT, ACCORDING TO TREMKLE/AUTOPSY,
THERE WAS A BREAK, A "FRACTURE" ON THE RIGHT FEMUR (APP. I, T.T. 362-363,
387, EX. 5, Pp 5, 14), AND THAT PATKINS WILLFUL "ABUSE" IS CAUSE (APP. I, T.T. 386,
364 - "ON-GOING ABUSE").

AT OP, PAGE 13 (APP. B), THE COA ABUSED DISCRETION, COMMITTING MATERIAL MISSTATEMENTS AGAINST TREMKLE, AND ADVOCATING FOR PIANTINI THAT A "FRACTURE OF HIS RIGHT FEMUR," ACCORDING TO PIANTINI, DID NOT AMOUNT TO "A FACT THAT DID NOT EXIST".

- IS PATKINS MISSING SOMETHING HERE? BECAUSE ITS MORE THAN CLEAR - ITS MICROSCOPICALLY CLEAR - PATKINS CHILD N-E-V-E-R HAD A LEG FRACTURE (APP. I, T.T. 467).

IN FACT, THE COA OMITTS MATERIAL FACTS, EVIDENCE, THAT TREMKLE IS UN-
SURE IF AN INJURY EXISTS, AND OMITTS TO ACKNOWLEDGE EVIDENCE, FACTS, THAT BOTH FEMURS, BILATERALLY, ARE GOING THROUGH "EPIPHYSES" - NATURAL GROWTH SPURTS (APP. I, EX 24, Pp 586).

TREMKLE IS UNSURE - "IF ITS INFLICTED" (APP. I, T.T. 468) - BECAUSE THE RIGHT EPIPHYSIS IS "SYMMETRICALLY" THICKER THAN THE BILATERAL LEFT (APP. I, T.T. 439).

THE COA KNOWS A BROKEN FEMUR NEVER EXISTED (APP. I, T.T. 467). PIANTINI'S FRAUD THAT AUTOPIY FOUND "AN OLDER FRACTURE ON ERIKS FEMUR" (APP. I, EX. 5, Pp 5, 14), AND PATKINS "ON-GOING ABUSE" IS CAUSE (APP. B, Pp 15-16; APP. C, Pp 13-14) IS NOT ONLY IMPLYING A FACTUAL BASIS THAT DOES NOT EXIST BUT FORECLOSED THE JURY FUNCTION TO THE "REASONABLE INTERPRETATION" (APP. I, T.T. 576-577) THAT, IN FACT, NO INJURY EXISTS BASED ON EVIDENCE NO MORE THAN A THICKER EPIPHYSIS, BILATERALLY ON THE RIGHT.

6

DENIAL OF THE RIGHT TO MEANINGFUL ACCESS TO THE COURTS: PATKINS, THUS, SUPPORTS COA IMPROPER ADVOCATING, ANSWERING THE COMPLAINT AS PIANTINI'S COUNSEL AND DEPRIVING PATKINS DISCOVERY PROCESS, E.G., AS

INTELLIGENT JUDGES, A.K.A. FACT FINDERS, IT HAS TO BE QUESTIONED:

WHY WAS E-V-E-R-Y INJURY AND/OR FACTUAL BASIS THEREOF TO CAUSE,

ETC., ARGUED AS TRUE ACCORDING TO PIANTINI'S NEUROLOGY INCOMPETENCE,

AND NEUROLOGY CONTRADICTIONS AGAINST TRENKLE - THE FORENSIC

PATHOLOGIST WHO PERFORMED THE 5-2-61 AUTOPSY.

IN FACT, NOT ONE INJURY, NOR FACTUAL BASIS TO CAUSE - THE D.A.I., R.H.,

SUBDURAL HEMORRHAGE, OR THE RIGHT FEMUR WAS REASONED BY THE C O A

AS ACCORDING TO AUTOPSY EVIDENCE, AND THE DIAGNOSIS OF THE FORENSIC

PATHOLOGIST OF HIS OWN PERFORMED AUTOPSY.

REASONS FOR GRANTING THE PETITION

1. BY THE UNLAWFUL ACTIONS, AND INACTIONS OF THE LOWER COURTS, PATKINS IS IMPEDED, DENIED ACCESS TO THE COURTS TO ACTUAL INJURY:
 - TO AVAILABLE COURT RESOURCES / TOOLS OF LITIGATION AS REQUIRED, YET, ARBITRARILY, DENIED TO PATKINS, E.G., FOR AVAILABLE NEUROLOGY EXPERT (APP. I, EX. 3).

"THE TOOLS OF LITIGATION MUST BE MADE AVAILABLE WHEN NECESSARY TO ENSURE MEANINGFUL ACCESS TO THE COURTS" — "A RIGHT VINDICATED BY BOUNDS [V. SMITH (1977) 430 U.S. 817]" (PHILLIPS V. HUST (9TH 2009) 588 F.3d 652, 655-656, 657).

SAID ACTIONS / INACTIONS ALSO INCLUDE:

- THE COA COMPLETE DISREGARD OF APPEAL GROUNDS / REVIEW ON:
 - "ABUSE OF DISCRETION," RE: C.C.P., § 585(b) AND / OR CAL. EVID. CODE, § 730 MOTIONS (CF. SMITH, 38 CAL. APP. 5TH AT 477);
 - DENIED CONSTITUTIONAL RIGHTS OF MEANINGFUL ACCESS TO THE COURTS (APP. F, PP 1, 2-3; APP. G, PP 2, 3, 5; CF. APP. B, PP 2); AND
 - THE PROVIDING OF NEUROLOGY EXPERT SUBSTANTIATION (APP. I, EX. 3) — [THE] "TOOLS OF LITIGATION" MANDATED AND DEPRIVED BY THE SUPERIOR COURT TO MEANINGFUL ACCESS (CF. APP. E, PP 6, 22, 38-39, 40-41; APP. B, PP 6, 7 — "INAPPROPRIATE EXPERT OPINION"; PHILLIPS, 588 F.3d AT 655-656).

"THE RIGHT OF ACCESS TO THE COURTS IS AN ASPECT OF THE FIRST AMENDMENT RIGHT TO PETITION . . . MADE APPLICABLE TO THE STATES BY THE 14TH AMENDMENT, INCLUDING THE RIGHTS OF PERSONS HELD

IN CUSTODY UNDER THE AUTHORITY OF STATE LAW TO "ADEQUATE, EFFECTIVE, AND MEANINGFUL" ACCESS TO THE COURTS" (NAYLOR V. AHLIN, 2011 U.S. DIST. LEXIS 126713, *43-44).

2. PATKINS WAS DEPRIVED PRO-SE DEFERENCE (HAINES V. KERNER (1972) 404 U.S. 519, 520) — INCLUDING A COURTS DUTY TO FIND, ACKNOWLEDGE COLORABLE CLAIMS FOR RELIEF;

"THE OBJECTIVE OF THE U.S. SUPREME COURTS ACCESS REQUIREMENTS WAS TO REMOVE BARRIERS TO COURT ACCESS THAT IMPRISONMENT, OR INDIGENCY ERECTED (HOOK V. WAINWRIGHT (11TH 1985) 775 F.2d 1433, 1436-1437):

- PATKINS IS INDIGENT;
- PATKINS IS IMPRISONED; AND
- PATKINS WAS GRANTED INDIGENT FEE WAIVER (APP. H), BUT, UNREASONABLY LIMITED TO ONLY THE FILING OF PAPERS AND COURT PHONE CALLS FOR HEARINGS, I.E., EVEN THOUGH PATKINS PAPERS HAD ACCESS TO THE COURTS, EACH COURTS ACTIONS/IN ACTIONS "IMPEDE MEANINGFUL, AND EFFECTIVE ACCESS" TO THE ULTIMATE RESULT OF DENIED ACCESS TO THE COURTS, AND ACTUAL INJURY (cf. SMITH, 38 CAL. APP. 5TH AT 465);

3. CALIFORNIA COURTS CONCEDE PATKINS FEDERAL AND STATE CONSTITUTION GUARANTEES TO INITIATE AND "PROSECUTE" A BONA-FIDE ACTION (SMITH, 38 CAL. APP. 5TH AT 465, 469 — CITING CAL. P.C., § 2601; 28 U.S.C. § 1915), AND THE SUPERIOR COURT ADMITS PATKINS ACTION IS NON-FRIVOLOUS (APP. E, PP 33, 48) — A "PRIMA FACIE CASE" REQUIRING EXPERT

SUBSTANTIATION FOR PURPOSES OF DEFAULT JUDGMENT (cf. JOHNSON V. STANHISER (1999) 72 CA 4TH 357, 361-362);

4. YET, ABUSED DISCRETIONARY AUTHORITY, DENYING INDIGENT PATKINS PROPERLY PLACED MOTIONS FOR EXPERT AND/OR APPOINTMENT OF COUNSEL PURSUANT C.C.P., § 585(6) / CAL EVID. CODE, § 730, i.e., AT ANYTIME BEFORE, OR "DURING" THE HEARING, PATKINS, OR THE COURT MAY MOTION FOR EXPERT, COUNSEL, OR "REFERENCE" ON COMPLEX MATTERS "TO CARRY THE JUDGMENT INTO EFFECT" (id).

THE SUPERIOR COURT, RATHER, AND CONTRARY TO EXISTING LAW, RULED THE COURT HAS "NO LEGAL BASIS", AND/NOR "AUTHORITY" TO APPOINT AN EXPERT, COUNSEL, OR ANY AVAILABLE COURT RESOURCES - TOOLS OF LITIGATION TO MEANINGFUL ACCESS (APP. E, PP 45-46, 52-54) - "YOUR ON YOUR OWN" (id).

5. THE C.O.A. NOT ONLY FOLLOWED SUIT WITH THE SUPERIOR COURT, RULING: THERE'S NOT "A SINGLE CASE" TO THE DETERMINATION PATKINS BE RE-SOURCED "COURT APPOINTED COUNSEL" (APP. B, PP 2, FN.1; BUT SEE, SMITH, 38 CAL. APP. 5TH AT 458 - CITING APOLLO V. GYAAMI (2008) 167 CAL. APP. 4TH 1468) BUT COMPLETELY DENIED ACCESS TO THE COURT TO GROUNDS RAISED ON APPEAL (APP. F, PP 1, 2-3; cf. APP. C, PP 2; APP. G, PP 2, 3, 5),
6. TO, RATHER, COMMIT IMPROPER, PREJUDICIAL ADVOCATING TO PLAINTIFF'S DEFENSE; ANSWERING THE COMPLAINT BY COMMITTING MATERIAL MIS-STATEMENTS, AND OMISSIONS OF FACTS AND EVIDENCE TO THAT DEFENSE, AND THEREOF RELIANCE TO THE JUDICIARY DISPOSAL OF PATKINS NON-FRIVOLOUS FRAUD ACTION AS ELEMENT DEFICIENT (cf. STATEMENT OF THE CASE, PAGES 6-16, SUPRA); TO ACTUAL INJURY.

THE STATE COURTS OF PATKINS JURISDICTION HAVE DECIDED AN IMPORTANT FEDERAL QUESTION IN A WAY THAT CONFLICTS WITH THE DECISION OF ANOTHER STATE COURT, AND OF OTHER UNITED STATES COURTS.

7. BOTH, SUPERIOR COURT, AND C.O.A., "COMMITTED LEGAL ERROR" ACCORDING TO EXISTING, CONFLICTING AUTHORITY ON STATE INTERPRETED FEDERAL RIGHT TO MEANINGFUL ACCESS TO THE COURTS - AND TO COURT RESOURCES/ "AVAILABLE MEASURES" (SMITH, 38 CAL. APP. 5TH AT 453, 467);

IN SHORT, AND CITING THE FEDERAL CONSTITUTION, SMITH HOLDS:

- A PARTIES REQUEST FOR APPOINTMENT OF COUNSEL IS "INVOKING THE RIGHT OF MEANINGFUL ACCESS TO THE COURTS" (id. AT 475-476), TRIGGERING A "THREE STEP INQUIRY" BY THE COURT (id. AT 477) - NOT PERFORMED IN PATKINS CASE (APP. E, B, C);
- THE SUPERIOR COURT, IN FACT, HAD A "LEGAL BASIS" (APP. E, Pp 45-46), AND/OR "DISCRETIONARY AUTHORITY" NOT TO IMPEDE COURT ACCESS (id. AT 470) - AS IN PATKINS CASE - BUT TO AFFORD INDIGENT LITIGANTS "AVAILABLE MEASURES" TO MEANINGFUL ACCESS (id. AT 467-469; FN. 7 - APPOINTMENT OF EXPERT PURSUANT CAL. EVID. CODE, § 730);
- THE TRIAL COURT "DOES NOT HAVE DISCRETION TO CHOOSE NO REMEDY" (id. AT 468) - AS IN PATKINS CASE.

- 8 AS INDIGENT AND IMPRISONED, WHAT THE SUPERIOR COURT REQUIRED, AND PATKINS PROVIDED - VIA COURT RESOURCES - TO THE C.O.A. (APP. I, EX 3), TO MEANINGFUL ACCESS, IS WHAT EACH COURT PURPOSELY DENIED TO PATKINS - EVEN PATKINS GRANTED INDIGENT FEE WAIVER CONCEDES AVAILABILITY TO "FEES FOR COURT APPOINTED EXPERTS" (APP. H, P 4).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 5.20.21