

MAR 14 2022

OFFICE OF THE CLERK

No. 21-7667

IN THE  
SUPREME COURT OF THE UNITED STATES

Daniel Irving — PETITIONER  
(Your Name)

vs.

The People of the State of California — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Fourth Appellate District Division Three  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

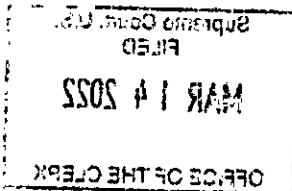
Daniel Irving BJ9481  
(Your Name)

San Quentin State Prison/1 Main Street  
(Address)

San Quentin, CA 94964  
(City, State, Zip Code)

408-209-0090  
(Phone Number)

**ORIGINAL**



QUESTION(S) PRESENTED

Shouldn't it be illegal to suppress evidence?

How can 2 court cases give conflicting rulings  
for the same evidence?

How can evidence which says a person is innocent  
be 'too helpful' for the jury?

Isn't a defendant supposed to be innocent until  
PROVEN guilty?

Why aren't all cases Published? It seems discriminatory  
to arbitrarily decide which cases can be published or not.  
Shouldn't the US Supreme Court rule: All Appeal judgements  
must be published?

## **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**

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## **TABLE OF AUTHORITIES CITED**

| <b>CASES</b>                                       | <b>PAGE NUMBER</b> |
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| Hart v. Wielt (1970) 4 Cal.App.3d 224, 229 2/6/70  | 5                  |
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### **STATUTES AND RULES**

### **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 \_\_\_\_\_; 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 is unpublished.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 A 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 \_\_\_\_\_

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 12/15/2021. 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**

## STATEMENT OF THE CASE

Shouldn't it be illegal to suppress evidence?

During trial, Daniel Irving's attorney (Chuck Smith) stated he would show the speeding assertion of Det Sirmon would be proven to be inaccurate. Upon this revelation, the prosecutor (Brian King) notified Det Sirmon who, realizing his mistake, revised his report. Since this harmed the prosecution's case, Brian King requested to suppress the evidence in the revised report and Judge Arroyo assented.

Suppress definition (Webster's dictionary):

To keep from public knowledge; To keep secret;

To stop or prohibit the publication or revelation of

It is understandable why there is no sympathy for someone who is DUI. However, this should not preclude or discriminate against this person from receiving a fair trial.

Daniel Irving did make a mistake and should have been punished for his second DUI. However, he did not cause the accident, so he should not have been punished as if he had.

How can different court cases give conflicting rulings for the same evidence?

2 court cases (Hart v Wielert & People v Landeros) rule-

Traffic officers whose duties include investigations of automobile accidents are qualified experts and may properly testify concerning their opinions as to the various factors involved in such accidents...

And another court case (People of the State of California vs Daniel Irving) rule-

Det Sirmon's testimony is not admissible as evidence.

These are contrary rulings used however it best works to convict a defendant. Are expert witnesses opinions only valid when they help convict a defendant?

How can evidence which says a person is innocent be 'too helpful' for a jury?

Isn't a defendant supposed to be innocent until PROVEN guilty?

More than one attorney told us this case would not likely have even been tried if Det Sirmon's report had been accurate from the start.

## REASONS FOR GRANTING THE PETITION

This addresses the basic civil right to a fair trial for everyone.

Due process was denied when evidence was suppressed and the ability to fully cross examine an expert witness was denied.

Initially the prosecutor (Brian King) solicited Det Sirmon's expert opinion on the Primary Collision Factor. However, when Det Sirmon changed his report to show the Primary Collision Factor was not Daniel Irving, the prosecutor filed a motion to suppress this expert opinion. The defense should have been able to question the cause of and the resultant changes made to the 2 reports presented by Det Sirmon and the prosecution:

Why in his expert opinion did his initial report determine the Primary Collision Factor (cause) of the accident to be Daniel Irving's actions and then change in his second report- which then held Edgar De La Mora's (Cantoran) actions to be the actual Primary Collision Factor (cause) of the accident?

The Fourth Appellate District Division Three ruled in direct contrast to a previous Appellate's court case (Landeros) ruling in California. Since this case (Landeros) was unpublished, this previous case was not able to be cited at trial or upon Appeal. The justice system should not be allowed to get away with suppressing evidence in whatever way helps to convict a defendant. An Appellate judgement should not be able to be suppressed (unpublished) in order to not be cited in future court cases and Appeals.

How are citizens supposed to have trust in the judicial system if the rulings only work in favor of the prosecution? What if this happened to you or someone in your family? The facts and science from both accident reconstruction expert witnesses say the pedestrian caused the accident and you still are convicted based on an emotional argument.

Everyone we have talked to can't believe this happened in our justice system.

## **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Daniel Irving

Date: March 11, 2022