

No. 21-7713

6109

ORIGINAL
ORIGINIAL

IN THE
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED
MAR 24 2022
OFFICE OF THE CLERK

WILLIAM S. NEELEY — PETITIONER
(Your Name)

vs.

Superior Court of Sacramento County — 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

WILLIAM S. NEELEY
(Your Name)

P.O. BOX 409090
(Address)

Ione, CA 95640
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

Do the safeguards provided by the 14th Amendment apply to the state's unreasonable denial of post-trial criminal discovery where Petitioner, with newly discovered evidence of DNA tampering, has substantial liberty interest in obtaining additional discovery to which he would have been entitled to at trial?

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

N/A

TABLE OF CONTENTS

| | |
|--|---|
| OPINIONS BELOW..... | 1 |
| JURISDICTION..... | 2 |
| CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED | 3 |
| STATEMENT OF THE CASE | 4 |
| REASONS FOR GRANTING THE WRIT | 5 |
| CONCLUSION..... | 6 |

INDEX TO APPENDICES

APPENDIX A - HIGHEST STATE COURT'S DECISION

APPENDIX B - TRIAL COURT'S REASONED DECISION & STATE APPELLATE COURT DECISION

APPENDIX C - CA PC 1054.9 RECORD IN THE TRIAL COURT

APPENDIX D

APPENDIX E

APPENDIX F

TABLE OF AUTHORITIES CITED

CASES

| CASES | PAGE NUMBER |
|--|-------------|
| People v. Ramirez (1979) 25 Cal. 3d 260 | 5a |
| Thomas Cusack Co. v. Chicago, 242 US 526 (1917) | 5a |
| In re Steele, 32 Cal. 4th at 697 | 5a |
| Barnett v. Superior Court, 145 Cal. App. 4th 495 (2006) | 5a |
| National Citizens Committee for Broadcasting v. FCC 535 F.2d 938 (D.C. Cir. 1977) | 5a |
| Toohay v. Nitze, 429 F.2d 1132 (9th Cir. 1970) | 5a |

STATUTES AND RULES

| | |
|---|----|
| California Penal Code 1054.9 | 4a |
| California Evidence Code 356 | 4a |
| The 14th Amendment of the U.S. Constitution | 5a |

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.

& 3rd Appellate District Decision

The opinion of the Sacramento County Superior court appears at Appendix B 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 _____. 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

1. The 14th Amendment of the U.S. Constitution (Petitioner is a state prisoner and unable to print out verbatim the laws herein cited).
2. California penal code 1054.9
3. California evidence code 356.

STATEMENT OF THE CASE

See p. 4a

Petitioner is a state prisoner for whom California's Penal Code 1054.9 allows post-trial discovery for habeas purpose. Through it, Petitioner obtained photos of the DNA evidence envelopes containing his and the victim's alleged reference mouth swabs (Appx C, 358-360) showing unaccounted for access dates (1/4/04 and 1/14/04, Id.) by police lab personnel for which no testing or any other purpose was ever documented anywhere, this in light of trial record (Appx C, 607) showing that the alleged inculpatory evidence (Item 002-01) was tested the first time around and showed no DNA from either Petitioner or the alleged victim (Alicia S.). It was tested again after the unaccounted for access to Petitioner's and the victim's alleged reference DNA mouthswabs and, lo and behold, both Petitioner's and the victim's DNA showed up on the second test date (Appx C, page 246) .

Petitioner, under PC 1054.9, asked for, among many things listed in his motion (Appx C, 600-606) , disclosure of the pre-trial testing written requests to see what was actually tested or requested to be tested. Without these, he would have no idea what testing was done, the results of which he was entitled to as a matter of law whether inculpatory or exculpatory.

Based on previous discovery (Appx C, 244) Petitioner became aware of the existence of five pre-trial testing requests, which the prosecutor and the trial court refused to turn over (Appx C, 439-440) . Incidentally, the state turned over testing request #6 (006) but argued without merits that there was a difference (Appx C, 440) between pre-trial and post-trial testing requests, and that Petitioner was not entitled to the pre-trial DNA testing requests even as Petitioner pointed out California's Evidence Code 356 allowing for such associated evidence to which Petitioner would have been entitled at trial and which trial counsel appeared to have asked for (Appx C, 258) but never received.

Petitioner contends that all of his 1054.9 discovery requests are allowed under the law and the state's denial is arbitrary and unconstitutional. After the trial court's denial Petitioner's mandate petition to the state appellate court and petition of review to the state's highest court were summarily denied.

REASONS FOR GRANTING THE PETITION

See p. 5a

Post-trial discovery is of national importance because many prisoners were poorly represented and this is the only mechanism by which they can obtain assistance in collaterally attacking their convictions.

California Supreme Court and the U.S. Supreme held that Due Process prohibits arbitrary state's action. People v. Ramirez (1979) 25 Cal.3d 260 (freedom from arbitrary adjudicative procedures is a substantive element of one's liberty); Thomas Cusack Co. v. Chicago, 242 US 526 (1917)(the 14th Amendment safeguards fundamental rights of persons and of property against arbitrary and oppressive state action).

Both California's highest court and the same appellate state court that denied Petitioner in this case had held in previous decisions (In re Steele, 32 Cal.4th at 697 and Barnett v. Superior Court, 145 Cal.App.4th 495 (2006)) that defendants are entitled to post-trial discovery that they would have been entitled to at trial, including evidence reasonably believed to exist in the possession of law enforcement. Yet in Petitioner's case they arbitrarily denied Petitioner evidence to which he was entitled as a matter of law and substantive due process.

The state courts' decision, particularly the trial court's reasoned decision in this case (~~App x B~~) is erroneous, arbitrary, oppressive, and violative of Due Process under the law and hence unconstitutional. See National Citizens Committee for Broadcasting v. FCC, 535 F.2d 938 (D.C. Cir. 1977), aff'd in part, rev'd in part, 436 US 775 (1978)(decision is arbitrary if facts on which it is based are not supported by the record). The records hereto attached show that Petitioner is entitled under the law to all of his discovery requests.

Thus, the courts' non-compliance with statutory procedures and abuse of discretion are subject to judicial review. Toohey v. Nitze, 429 F.2d 1332 (9th Cir. 1970) cert denied, 400 US 1022.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

William S. Neely
Date: 3/17/2022