

21-7774 ORIGINAL

BRANDON LEON BIBBS; #BM6927

CDCR Inmate/In Pro Se

High Desert State Prison

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Susanville, CA 96127

Supreme Court, U.S.

FILED

FEB 14 2022

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IN THE
SUPREME COURT OF THE UNITED STATES

BRANDON LEON BIBBS,

Petitioner,

Vs.,

ALEX VILLANUEVA,

Respondent.

No.

PETITION FOR WRIT
OF CERTIORARI

- on Petition For Writ of Certiorari to
Superior Court of L.A., California

QUESTIONS PRESENTED

1. Were the rulings of the lower courts arbitrary towards the petitioner being illegally held in custody of the county officials as related to the cases of *People v. Wilson*, 93 Cal.377 (1982) and *Wells v. Justice Ct. for Merced Jd. Dist.*, 181 Cal.App.2d 212 (1960), being in violation the petitioner's search and seizure rights (U.S.C., 4th Amend.

2. How did the lower courts determine that there was no constitutional violation when the claims for illegal arrest and holding of petitioner were present and factual, as consistent with *Riverside v. McLaughlin*, 500 US 44 (1991); *Pennell v. Salazar*.

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266 Cal. App. 2d 113 (1968).

3. If the petitioner exhausted his claims to the highest state court, how can a Younger abstention (Younger v. Harris, 401 U.S. 37 (1971)) apply as still an existing "adequate opportunity to raise claims in the lower court, when petitioner is fully deprived of his due process as an ultimate factor (U.S.C., 14th Amend.).

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

RELATED CASES

• In re BRANDON BIBBS, No. VM34204, SUPERIOR COURT OF THE STATE OF CALIFORNIA IN THE COUNTY OF LOS ANGELES. Judgement entered June 18, 2020

• In re BRANDON BIBBS, No. B306269, COURT OF APPEAL OF THE STATE OF CALIFORNIA-SECOND APPELLATE DISTRICT. Judgement entered June 11, 2020.

• In re BRANDON BIBBS, No. S263438, SUPREME COURT OF CALIFORNIA. Judgement entered Sep. 19, 2020

• BRANDON BIBBS N. 2:20-cv-18728-IVS-KK (UNITED

STATES DISTRICT COURT-CENTRAL DISTRICT OF
CALIFORNIA. Judgement entered Oct. 1, 2020

BRANDON BIBBS, No. 20-56085, UNITED STATES
COURT OF APPEALS FOR THE NINTH CIRCUIT.
Judgement entered Nov. 16, 2021

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APPENDIX B... "ORDER SUMMARILY DISM." [No. 20-56085]
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APPENDIX D... DECISION... STATE TRIAL CT. [No. VA134204]
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TABLE OF AUTHORITIES

- People v. Wilson, 93 Cal. 377 (1982) 6
- Wells v. Justice Ct. of Merced Jud. Dist., 181 Cal. App. 2d 221 (1960) 6
- Riverside v. McLaughlin, 500 US 44 (1991) 5
- Gerstein v. Pugh, 420 US 103 (1975) 5
- In re Walters, 15 Cal. 3d 738 (1975) 6
- People v. Salazar, 266 Cal. App. 2d 113 (1968) 6

STATUTES AND RULES

- Penal Code Section 872 6
- Penal Code Section 806 6
- Penal Code Section 738 6
- Penal Code Section 813

OTHER

- United States Constitution, 4th Amendment 5
- United States Constitution, 6th Amendment 6
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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 judgement below.

OPINIONS BELOW

For cases from federal courts:

The opinion of the United States court of appeals appears at Appendix A to the petition and is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is unpublished.

For cases from state courts:

The opinion of the highest state court to review the merits appears at Appendix E to the petition and is unpublished.

The opinion of the Appeals court appears at Appendix C to the petition and is unpublished.

JURISDICTION

For cases from federal courts:

The date on which the United States Court of Appeals decided my case was November 16, 2021.

No petition for rehearing was timely filed in my case.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1251(1)

For cases from state courts:

The date on which the highest state court decided my case was April 1, 2020. A copy of that decision appears at Appendix F.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(1)

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

• U.S.C. 4th Amendment ["The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated,..."]

• U.S.C. 6th Amendment ["In all Criminal Prosecutions, the accused shall enjoy the right...to be informed of the nature and cause of the accusation...to have the Assistance of Counsel for his defence."]

• U.S.C. 14th Amendment ["...nor shall any State deprive any person of life, liberty, or property without due process of law; nor to deny to any person within its jurisdiction the equal protection of the laws."]

• California P.C. § 806 ["A proceeding for the examination before a
(3)"]

magistrate of a person on a charge of a felony must be commenced by written complaint under oath subscribed by the complainant and filed with a magistrate.

California P.C. § 8721(a) If, however, it appears from the examination that a public offense has been committed, and there is sufficient cause to believe that the defendant is guilty, the magistrate shall make or indorse on the complaint an order, signed by him or her,

STATEMENT OF THE CASE

On May 31, 2016, the petitioner was arraigned by no felony complaint on file to commence any charges and the prosecution did not provide any reason for the arrest of the petitioner by local law enforcement officials, in the superior court.

On January 17, 2017, the petitioner was held in custody by local law enforcement officials with no order endorsement by a magistrate after a preliminary examination.

On January 31, 2017, the prosecution filed an information charging the petitioner.

On June 17, 2020, the state Court of Appeals summarily denied the petitioner's habeas corpus related to the foregoing issues.

On June 18, 2020, the Superior Court denied the petitioner's habeas corpus related to the foregoing issues for not showing a prima facie case for relief.

On September 19, 2020, the state Supreme Court summarily denied the petitioner's habeas corpus related to the foregoing issues.

On October 1, 2020, the United States District Court summarily denied the petitioner's federal habeas corpus, related to the forgoing issues, with prejudice, for the reasons of the Younger abstention applying to having an adequate opportunity to raise claims in state courts, stating in particular that I had not adequately raised these claims in a bail hearing.

On November 16, 2021, the United States Court of Appeals denied a certificate of appealability of these previous issues for not showing if jurists of reason find it debatable the petition states a valid claim of a denied constitutional right and whether the district court was correct in its procedural ruling, by the petitioner.

REASONS FOR GRANTING THE PETITION

In considering any value in the law of the constitution, would point towards the egregious misconduct by the local law enforcement officials that was pursued on the petitioner. Clearly the petitioner was deprived his liberty without due process in the totality of circumstances that are being presented in this petition (U.S.C., 14th Amend.). The petitioner deserves to have an equal protection of the laws of his jurisdiction, just like the rest of the people residing, according to the law of the land (U.S.C., 14th Amend).

The scope of the petitioners search and seizure rights that were violated rely on the decisions of *Riverside v. McLaughlin*, *supra*, *Gerstein v. Pugh*, *supra*, and *In re Waters*, *supra*, that took precedent in the relevant decisions concerning a fair, neutral, and reliable determination of probable cause by a magistrate, and was not intended to hold discretion in the concept of ordered liberty, being in the hands of executives.

Clearly there was no authorization of any executive local law

enforcement officials to have jurisdiction to, arrest and arraign petitioner, as related in the case of *People v. Salazar*, supra, and also hold petitioner in custody to answer charges, as related in the cases of *People v. Wilson*, supra; *Wells v. Justice Ct. of Merced Jud. Dist.*, supra, which in turn stemmed from no accusations to commence any charges, being filed to arraign petitioner (P.C. §§ 806, 872, 738) (U.S.C., 6th Amend.).

These issues brought forth are crucial to the law and decisions upheld by the law of the land and this court, and should equal the same amount of value as any person's constitutional rights that reside in the jurisdiction and is related to its jurisprudence that it is derived from. In contrast, the lower courts never did make a decision based on the criteria of any jurisprudence, and that is the ultimate reason why this petition should be given its undisputed credit and victory towards upholding the petitioner rights and value of the United State Constitution. (Clearly, I never claimed my 8th Amend. Const. right to have fair bail, as raised by... id. p. 5).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,
BRANDON LEON BIBBS

1/7/22