

21-7780

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

FILED
MAR 26 2022
OFFICE OF THE CLERK
SUPREME COURT, U.S.

In re SELVIN ORLANDO CARRANZA — PETITIONER
(Your Name)

vs.

on Habeas Corpus — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT, DIVISION FIVE
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Selvin Orlando Carranza
(Your Name)

California Medical Facility, P.O. Box 2000
(Address)

Vacaville, CA, 95696-2000
(City, State, Zip Code)

—
(Phone Number)

QUESTION(S) PRESENTED

1) "Should an [Innocent Man] setting forth [allegations of his Actual Innocence], a deprivation of [Due Process] rights guaranteed by the U.S. Federal Constitution, which I can prove and would entitle me to my release from my **FALSE CONVICTION** and **IMPRISONMENT OF OVER 22 years now**, be allowed an [EMERGENCY EXCEPTION to the Rules of Untimeliness and Successive Writ of Habeas Corpus in California. Due to the EMERGENCY PANDEMIC of COVID-19, which I had initially been infected with at the time and suffered long lasting symptoms]. *J. Mooney v. Holohan*, 294 U.S. 103; *Pyle v. Kansas*, 317 U.S. 213, 215-216; *Giglio v. United States*, 405 U.S. 150 ?"

2) "Is Defense Counsel's [requested] Pre-Trial Discovery and **Brady** Material, a U.S. Due Process Constitutional violation, [I]imited; **Or** was the Prosecutor [releaved] from her duties and obligations to disclose **Brady** Discovery Material. . . . Simply because the Prosecutor [strategically chose to not name] and Indicted and Convicted Long Beach Police Officer, Julio A. Alcaraz, on her People's Witness List, nor called him as a witness at trial. Suppressing [useful information from the Defense]. The whole Investigation, Indictment, and Convictions against Officer Alcaraz [targeting Civilians with a spree of strong armed robberies of drugs and money, during the same dates, same locations, same M.O. (Modus Operandus) of the Murder/Robberies pinned and charged against me, Defendant. *Brady v. Maryland* (1963) 373 U.S. 83 [10 L.Ed.2d 215, 83 S.Ct. 1194]; See also *Pitchess v. Superior Court* (1974) 11 Cal.3d. 531, 535 ?"

QUESTION(S) PRESENTED

3)"Is it a U.S. Due Process 14th and 8th Amendments Constitutional Rights Violation, and a *Brady v. Maryland, supra*, Violation, for a Prosecutor who Knew, or should have Known, but failed to disclose Exculpatory Evidence, Third Party Culpability Evidence: that Long Beach Police Officer, Julio A. Alcaraz, was in fact part of the investigation for the murder/robberies charged against me, Defendant. . . But was also the same Officer responsible, Indicted and Convicted for a Spree of strong armed robberies of drugs and Money against Civilians. During the same dates, same locations, same M. O., of the murder/robberies pinned and charged against me, Defendant?"

4)"Should an [Innocent Man] setting forth allegations of his **Actual Innocence**, a deprivation of Due Process Rights guaranteed by the U.S. Federal Constitution, be allowed to have the ".30 Caliber [bullet] found during the autopsy of the Murder/robberies he was FALSELY CONVICTED on. . . [tested and compared by a Ballistic Expert] to the Firearms found in the possession of Indicted and Convicted [Serial Robber], Long Beach Police Officer, Julio A. Alcaraz." When the Prosecutor failed to disclose this **Exculpatory Evidence**, Third Party Culpability Evidence, and **Impeachment Purposes Evidence**, *Brady v. Maryland, supra*, Discovery Material, crucial to the Defense. *Napue v. Illinois*, 360 U.S. 264; *Schlup v. Delo* (1995) 115 S.Ct. 851, 130 L.Ed.2d 808, 836, 513 U.S. 298, 327; *Mooney v. Holohan, supra*; *U.S. v. Agurs* (1976) 427 U.S. 97, 107 [49 L.Ed.2d 342, 96 S.Ct. 2392]; *In re Brown* (1998) 17 Cal.4th 873 at 879, 72 Cal.Rptr.2d 698, 952 P.2d 715?"

QUESTION(S) PRESENTED

5) Is it a U.S. Due Process 14th and 8th Amendments Constitutional Rights Violation, and a **Brady** Violation, for a Prosecutor who failed to disclose [Impeachment Purposes Evidence] of Long Beach Police Department (LBPD) Officer, Julio A. Alcaraz's Indictment and Convictions for a Spree of strong armed robberies. And the Whole Investigation against him by the LBPD and FBI since 1997. . . which Defense Counsel could've used to: 1) call Officer Alcaraz as a witness for the Defense and Impeached him; and 2) Impeached the six (6) LBPD Officers who testified against the Defendant at trial. Regarding their Motives to lie and perjure themselves to protect their LBPD Partner of 11 years, Officer Julio A. Alcaraz, from being prosecuted for the murder robberies pinned and charged on the Defendant. . . And to protect their whole Long Beach Police Department from a [similar] **LAPD RAMPART SCANDAL** within their own Long Beach Police Department. **See Ovando v. City of Los Angeles** (March 28, 2002), 92 F. Supp.2d 1011, 1014 ? ”

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

Selvin Orlando Carranza v. on Habeas Corpus (No.: NA043768 (Gary J. Ferrari, Judge)). Superior Court of California, County of Los Angeles. Judgment entered Dec. 14, 2020 (Grounds: Newly Discovered Evidence, a U.S. Due Process & Brady Violations).

In re Selvin Carranza v. on Habeas Corpus, No.: B311821 Court of Appeal of California, Second Appellate District, Division Five. Judgment entered May 14, 2021 (Grounds: Newly Discovered Evidence, a U.S. Due Process & Brady Violations).

In re Selvin Orlando Carranza v. on Habeas Corpus, No.: S270258. Supreme Court of California. Judgment entered Oct. 27, 2021 (Ground: Newly Discovered Evidence, a U.S. Due Process & Brady Violation).

RELATED CASES

People of the State of California, v. Selvin O. Carranza, on Habeas Corpus. No.: NAO43768 (Charles D. Sheldon, Judge), Superior Court of California, County of Los Angeles. Judgment entered 7/25/2008. Order dated 8/13/2008 (Ground: Ineffective Assistance of Counsel (IAC)).

In re Selvin Orlando Carranza v. on Habeas Corpus, No.: B213726 Court of Appeal of California, Second Appellate District, Division Five. Judgment entered March 30, 2009 (Ground: IAC).

In re Selvin Orlando Carranza v. on Habeas Corpus, No.: S173081 Supreme Court of California. Judgment entered: Nov. 19, 2009. (Ground: IAC).

Selvin Orlando Carranza v. Parral G. Adams, Warden. No.: CV09-9241-CJC (SS) Notice of Reference To A U.S. Magistrate Judge, entered Dec. 16, 2009. Notice of Filing of Magistrate Judge's Report and Recommendation, entered January 12, 2010. (Ground IAC)

I believe I then asked the U.S. Court of Appeals 9th Circuit permission to file a [successive] Writ of Habeas Corpus with negative results. But I may have lost the orders during cell searches. For I don't have them

RELATED CASES

People of the State of California v. Selvin Orlando Carranza. Jury Trial: May 23, 2002 - June 11, 2002. Case No.: NA043768 (Charles D. Sheldon, Judge) Superior Court of California, County of Los Angeles. Sentencing entered Sept. 11, 2002. Abstract of Judgment filed 9/17/2002.

THE PEOPLE v. Selvin O. Carranza. No: B161364 (on Direct Appeal) Court of Appeal of California, Second Appellate District, Division Five. Judgment entered Aug. 04, 2003

THE PEOPLE v. Selvin Orlando Carranza. No: S118781. Supreme Court of California, Judgment entered: Oct. 15, 2003. Denying Review.

Selvin Orlando Carranza v. S. Ryan Warden. No: CV05-00592-CJC (SS). U.S. District Court, Central District of California. Notice of Filing/Report And Recommendation of U.S. Magistrate Judge, entered March 15, 2006. Denied Habeas Corpus Relief.

Selvin Orlando Carranza v. S. Ryan, Warden, No: CV05-00592-CJC-(SS). U.S. District Court, Central District of California. Order Adopting Findings, Conclusions, and Recommendations of U.S. Magistrate Judge by U.S. District Judge entered April 19, 2006. April 24, 2006.

Selvin Orlando Carranza v. S. Ryan, Warden. No: 06-55902. U.S. Court of Appeals for the 9th Circuit. Request For Certificate of Appealability Denied: Oct. 4, 2006. And Motion For Reconsideration Denied June 05, 2007.

Carranza v. Ryan, Warden. Supreme Court of the United States Clerk's letter, returning Writ of Certiorari as Untimely, dated Oct. 8, 2008.

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No.: B11821 (on Habeas Corpus, Newly Discovered Evidence (NDE)).

APPENDIX B Decision of Superior Court of California, County of Los Angeles, Dec. 14, 2020. No.: NAO43768 (on Habeas Corpus (NDE)).

APPENDIX C Supreme Court of California's Decision, Denying Review Oct. 27, 2021 (on Habeas Corpus, (NDE)), No: S270258

APPENDIX D Decision of Superior Court of California, County of Los Angeles, July 25, 2008, No: NAO43768 (on Habeas Corpus (IAC)).

APPENDIX E Decision of California Court of Appeals, March 30, 2009
No: B213726 (on Habeas Corpus (Ground IAC)).

APPENDIX F Decision of Supreme Court of California, Denying Review, Nov. 19, 2009, No: S173081 (on Habeas Corpus (Ground IAC)).

APPENDIX G Decision of U.S. District Court, Central District of California, No: CV-09-9241-(CJC (55)). Magistrate Judge Report & Recommendations (lost during Civil Searches), entered Dec. 16, 2009.

I believe I then asked the U.S. Court of Appeals 9th Circuit permission to file successive Writ of Habeas Corpus, to no avail.

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APPENDIX H: Decision of Superior Court of California, County of Los Angeles, Jury Trial: May 23, 2002 - June 11, 2002. No: NAO43768. Sentencing entered 9/11/2002. Abstract of Judgment filed 9/17/2002.

APPENDIX I: Decision of California Court of Appeals, Aug 04, 2003. No.: B161364 (on Direct Appeal).

APPENDIX J: Decision of Supreme Court of California, Oct. 15, 2003. No: S118781 (Petition for Review Denied on Direct Appeal).

APPENDIX K: Decision of U.S. District Court, Central District of California. No: CV-05-00592 CJC (SS) (Denied Habeas Corpus Relief) Magistrate Judge's Report and Recommendations entered March 15, 2006. Adopting Findings, Conclusion, and Recommendations of U.S. Magistrate Judge by U.S. District Judge. April 19, 2006, April 24, 2006.

APPENDIX L: Decision of U.S. Court of Appeals, 9th Circuit. No.: 06-55902. Request for Certificate of Appealability Denied Oct. 04, 2006. And Motion for Reconsideration Denied June 5, 2007.

APPENDIX M: Letter from Honorable Clerk of this Supreme Court of the United States returning Writ of Certiorari as Untimely dated Oct. 8, 2008.

APPENDIX N: Defense Counsel's Motion Titled "Request for Pre-Trial Discovery, dated January 3, 2001."

APPENDIX O: Trial Defense Counsel's Declaration in Support of my ACTUAL INNOCENCE & Brady Violation dated: Sept. 21, 2020.

APPENDIX P: JUROR'S Question during deliberation regarding "What is the Caliber of the Murder Weapon? And Answer.

APPENDIX Q: October 1999 Grand Jury Indictment against LBPD Officer Julio A. Alcaraz filed in the U.S. District Court for the Central District of California in Los Angeles.

APPENDIX R: Criminal Complaint filed against LBPD Officer Julio A. Alcaraz by LBPD Detective David Jones in the U.S. District Court for the Central District of California in Los Angeles.

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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 A" to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

Superior Court of California, County of

The opinion of the Los Angeles, Dept. 523 (Gary J. Ferrari, Judge) 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. 21 A 500.

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 Oct. 27, 2021. A copy of that decision appears at Appendix "C".

[] 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 March 26, 2022 (date) on March 14, 2022 (date) in Application No. 21 A 500.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Code Annotated Constitution of the United States Annotated Amendment Fourteen (XIV) Due Process :

Sec. 1

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

United States Eighth Amendment Constitutional Right
To be free from Cruel & Unusual punishment, Deliberate Indifference.

STATEMENT OF THE CASE

Simply because a [Prosecutor] strategically chose to not name an Indicted and Convicted Long Beach Police Department (LBPD) Officer, Julio A. Alcaraz, on her People's Witness List. Nor called him as a witness at trial. . . . It does [not] mean that the Prosecutor was relieved from her duties & obligations, to disclose Brady Discovery Material, Exculpatory Evidence, Third Party Culpability Evidence, and Impeachment Purposes Evidence to the defense:

That LBPD Officer, Julio A. Alcaraz had been Indicted in Oct. 1999, and Convicted November 30, 2001, for a SPREE OF [strong armed robberies against Civilians for drugs & money]. During the same time frame, same dates, same locations (within half a square mile from the "WEST SUBSTATION" he worked in). Using the same M.O. (Modus Operandi) of the murder/ robberies pinned & charged against me, Defendant.

WEST SUBSTATION (LBPD) Long Beach Police Department

LB PD	1	Ralphs	Willow Street	1st Robbery of 3/2/1999
	2		Hill Street	2nd Robbery of 8/14/1999
	3		20th Street	3rd Murder/Robbery of 9/25/1999
	4		Summit Street	4th Robbery of 1/27/2000
			19th Street	This is the Location of Alcaraz' spree of Robberies. He was prosecuted only for the 1st & 4th strong armed Robberies
			Parade Street	I was pinned & charged with the 2nd & 3rd Robberies. I - Pacific Coast Highway - cluding the Murder.

On Dec. 14, 2020, Judge Gary J. Ferrari, for the Superior Court of California, County of Los Angeles, before [retiring], "Ordered Summarily Denying Habeas Corpus Petition (Citing: Cal. Rules of Court 4.551 (g))." Stating the following reason: (See Appendix-B)

"Assuming the facts alleged in the Petition are true, Petitioner fails to allege facts establishing a *Prima Facie* case for Habeas Relief. (Citing: People v. Duvall (1995) 9 Cal. 4th 464, 474-475). The alleged Brady violation is not an issue.

Police Officer Julio A. Alcaraz was neither on the People's witness list, nor was he called as a witness at the trial. The fact that said Officer was indicted and convicted in Federal Court of various charges is of no moment to the present case nor any issue therein." (See Appendix-B)

While my Papers are inexpertly drawn, they do set forth allegations that my imprisonment resulted from Prosecutorial Misconduct, failing to disclose Exculpatory Evidence/Third Party Culpability Evidence/Impeachment Purposes Evidence Favorable to my Defense. . . . In fact, my Defense Counsel had filed a motion titled: "Request for PRETRIAL DISCOVERY," dated January 3, 2001 (See APPENDIX-N).

Indeed, Brady Violations are [not limited] only to cases in which a Prosecutor puts an Indicted and Convicted Police Officer on the People's Witness List, or called him as a witness at trial. As Judge Ferrari stated above.

Indeed, my allegations sufficiently charge a deprivation of Due Process Rights guaranteed by the U.S. Federal Constitution. And if proven, which if given the opportunity by this Honorable Court, I know I can prove, would entitle me to my [release]

from my present custody, my FALSE IMPRISONMENT OF OVER 22 years now (See *Pyle v. Kansas*, 317 U.S. 213, 215-216, 87 Lcd 214, 216, 63 S.Ct. 177 (phrasing this rule in broader terms); *Mooney v. Holohan*, 294 U.S. 103; *Brady v. Maryland* 83 S.Ct. 1194 (supra).).

My Defense Counsel cited *Pitchess v. Superior Court* (1974) 11 Cal. 3d 531, 535, in the Motion Requesting Pre-trial Discovery. *Pitchess* addresses the Disclosure of any Police Officers Convictions. Or Investigations, Citizen's Complaints against them. But in *Brady* this Supreme Court went on to state:

"A prosecutor's duty under *Brady* to disclose material exculpatory evidence applies to evidence the prosecutor, or the prosecution team knowingly possesses or has the right to possess. The prosecution team includes both investigative and prosecutorial agencies and personnel (See *In re Brown* (1998) 17 Cal. 4th 873 at 879, *supra*)."*U.S. v. Agurs* (1976) 427 U.S. 97, 107, *supra*, "extended *Brady* to impose a duty on prosecutors to volunteer exculpatory matter to the defense even without a request for such material."

In preparation for my July 26, 2000, Preliminary Hearing my Attorney at the time was Public Defender Stanley Perlo. And he had given me a copy of the "Murder Book" which consisted of all the Police Reports by every officer [who] was at the Murder Crime Scene speaking to witnesses on the night of the Murder of September 24, 1999, into the early morning hours of September 25, 1999 (which was at that time LBPD Julio Alvarez Alcaraz grave yard shift).

I remember reading his Police Report. Which was vague speaking to witnesses. But didn't name the witnesses he spoke too. His name Julio Alvarez, is my Aunt Gladys Alvarez,

Last Name. She recently passed away from COVID. I also have a cousin named Julio. Thus, I remember reading LBPD Officer Julio A. Alcaraz's Police Report as being part of the Murder Investigation.

But I lost the "Murder Book" during cell searches.

Wherefore, I'm asking this Honorable Supreme Court to Grant me Justice. And Grant me Review of my Petition for Writ of Certiorari. And Grant me Post Conviction Discovery. The "Murder Book." Even LBPD Officer Julio A. Alcaraz's Personnel file.

For I believe Officer Alcaraz was also part of the Robbery Investigation of Aug. 14, 1999. Into the early morning hours of Aug. 15, 1999. . . . In fact, all four (4) of these Spree of Robberies occurred down to the same hours of the night; during LBPD Officer Julio A. Alcaraz's [Grave Yard Shift].

Therefore, the Prosecutor had a duty and obligation to disclose this Brady Discovery Material to my Defense Counsel. In fact, Appendix-O, is my Trial Defense Counsel's Declaration in support of my Actual Innocence. Declaring that the Prosecutor's failure to Disclose the Indictment, Convictions, and the whole Investigation against LBPD Officer Julio A. Alcaraz violated my U.S. Due Process 14th Amendment Constitutional Rights (see Appendix-O, Ronald S. Higgins Declaration).

**FALSELY CONVICTED, FALSELY IMPRISONED,
THROUGH FALSE EVIDENCE, I COULD'VE IMPEACHED**

In Counts 1, 2, & 3, the only Murder Eyewitness, Mr. Salvador Saldivar Herrera testified he was under the influence of "drugs and alcohol at the time of the murder (RT-156-159, 170-174, 167-168)."

"Drugs," Mr. Herrera testified he didn't even know what he snored (RT. 159, 190). Mr. Herrera testified the murder suspect was just a little taller than himself, but not really. . . Mr. Herrera testified he's 5'6" tall (RT. 136). Defense Counsel had me stand up in court to show that at 6'2" tall I'm a lot taller than Mr. Herrera. Mr. Herrera testified the murder suspect was at the most 5'8" tall standing straight (RT. 247-248, 560, 136, 211-212).

Mr. Herrera testified he thought the murder weapon was a .45 caliber semiautomatic handgun (RT. 223). Mr. Herrera testified that Detective McMahon on 10/14/1999, had even showed Mr. Herrera his own .45 caliber semiautomatic handgun. And asked Mr. Herrera if it was like this one. And Herrera said "Yes (RT. 137, 146, 156)." Therefore, LBPD Detective Brian McMahon testified . . .

to [corroborate] what he and the Prosecutor knew to be the Murder eyewitness, Mr. Herrera's **FALSE/MISTAKEN/INCORRECT/PERJURED** testimony. . . By McMahon testifying: that I had made statements to him that I was a West Side Longo Gang Member who was always strapped (armed) with a Smith & Wesson .45 Caliber Semiautomatic handgun with 15 bullets in the clip & one in the chamber (RT. 883-885).

Making it more likely for the jury to believe that I was the murder suspect. Because according to Detective McMahon I was always strapped with the same caliber weapon the Murder eyewitness, Mr. Herrera, had described as the Murder Weapon, a .45 caliber semiautomatic handgun].

Infact, this became the Prosecutor's **FALSE THEORY** at trial. And her Closing Arguments to the jury as follows: (RT. 954-955)

"Now with respect to the Defendants' testimony here in Court, we have heard that he admitted to Detective McMahon on February 9th -- Well, he claims he didn't talk to Detective McMahon on February 9th. But we heard through Detective McMahon that he had a conversation with Mr. Carranza. And that Mr. Carranza told him that at the -- He is always strapped. He carried a .45 caliber handgun. And a loaded .45.

And you heard testimony from Mr. Herrera that he thought the weapon that was used during the murder was a .45."

But all along, the Prosecutor and the LBPD had the [bullet] found during the autopsy. And they knew it was a .30 caliber [Rifle] bullet. . . And [not a .45] (RT. 593-594).

Therefore, it was [crucial] for me to have been allowed to [impeach] LBPD Detective McMahon and all six LBPD officers who testified against me at trial regarding their motives to lie and perjure themselves to secure my conviction. And to [protect] their partner of 11 years, LBPD Officer Julio A. Alcaraz, from being prosecuted for the murder and robberies (Counts 1 through 5) pinned and charged against me. . . And to [protect] their whole Long Beach Police Department from a similar LAPD RAMPART SCANDAL within their own Long Beach Police Department (see *Ovando v. City of Los Angeles* (March 28, 2002) 92 F. Supp. 2d 1011, 1014, the Court stated:

"What became known in both local and national media as the Los Angeles Police Department ("LAPD") RAMPART SCANDAL first exposed by former LAPD Officer Rafael Perez ("Perez"). One of the named Defendants in this case, the events involved in the RAMPART Affair reportedly

include . . . a wide variety of ["Misconduct by LAPD Officers. Including, the shooting of unarmed suspects, the planting of evidence to justify those shootings, the preparation of False Police Reports to cover up the misconduct. . . and the presentation of perjured testimony resulting in the FALSE CONVICTIONS and IMPRISONMENT of a number of INNOCENT CITIZENS."]."

Id. at 1014 (C.D.Cal.2000) (Fees J.).

In fact, this was [not an Open and Shut case]. The jury deliberated for 8 hours and 35 minutes. The California Supreme Court has stated: "a case in which the jurors deliberate for longer than six (6) hours is [not an Open and shut case]. On June 10, 2002, the jury deliberated for 4 hours and 55 minutes. And on June 11, 2002, the jury deliberated for 3 hours 40 minutes (CT-162,164,255).

The Jury, had in fact, become so confused and deceived regarding the Caliber of the murder weapon they returned to ask the court: (Clerk's Transcript (CT.) 160).

"What is the Caliber of the murder weapon?"

But the Court having been deceived themselves, simply reiterated to the jury the trial testimony:

"The Final Answer to your earlier Question as the Caliber of the murder weapon is:

The Trial Testimony was - Witness Salvador Saldivar Herrera said he thought the murder weapon was a .45 Caliber handgun. Detective Bryan McMahon testified he read a report that the Bullet/Bullet Fragment was a .30 caliber." (CT.161)

Signed By: "C. Sheldon (see Appendix - P)
Judge"

But the jury was still [not] convinced "beyond a reason of a doubt," they then returned to ask the court for a "read back" of the Murder Eyewitness, Mr. Herrera's entire testimony (CT. 164-165).

"JURY VERDICT FORMS"

The Jury Verdict Forms for the Murder during the Attempted robberies of Mr. Manual Martinez Gomez and Salvador Saldivar Herrera (Counts 1, 2, & 3) clearly show: the jurors were required to write [TRUE or NOT TRUE] that I Defendant, Selvin Orlando Carranza, used/ personally and intentionally discharged a Firearm. . . Specifically, a Handgun within the meaning of Penal Code § 12022.5(a)(1), and 12022.53 (b)(c), (d), and (e)(1).

And the jury [wrote] in Capitol writing the word "TRUE" Nine (9) Times for Counts 1, 2, & 3 (CT. 249-251).

However, the only Evidence the jury heard about the murder weapon being a HANDGUN. . . Was the Murder eyewitness, Mr. Herrera's **FALSE/MISTAKEN/INCORRECT/PERJURED** testimony:

"That he thought the murder weapon was a .45 caliber Semiautomatic handgun. . . For Detective McMahon had even showed him his own .45 caliber Semiautomatic handgun. And asked Mr. Herrera if it was like this one. And Mr. Herrera said "Yes." (RT. 223, 137, 146, 156).

In *Giglio v. United States*, 31 LED 2d 104, at 108-109, 405 U.S. 150, this U.S. Supreme Court stated:

"A conviction secured by the use of FALSE EVIDENCE must fall under the due process clause where the state, although not soliciting the FALSE EVIDENCE, allows it to go uncorrected when it appears (see *Napue v. Illinois*, 360 U.S. 264, 269, 3 LED 2d 1217 at 1221).

Deliberate deception of a court and jurors in a criminal case by the presentation of false evidence is incompatible with the rudimentary demands of justice.

When the reliability of a given witness may well be determinative of guilt or innocence, the prosecution's non-disclosure of evidence affecting the credibility justifies a new trial, under the due process clause, irrespective of the prosecution's good faith or bad faith. *Id.* at 108-109. See also *Napue, Supra*, at 269, 3 LED 2d at 1221. ²³

The Prosecutor relied so heavily on Officer's Testimony from the Long Beach Police Department. She called a total parade of six (6) LBPD Officers to testify against my persona. Portraying me as a no good Gang Member, no good to society. The Prosecutor relied so heavily on LBPD Detective McMahon's testimony in order to support and strengthen the murder eyewitness, Mr. Herrera's testimony in court. The Prosecutor argued the following to the jury during Closing Arguments: (RT. 1017-1018)

"We heard Mr. Herrera, yes. He made a poor choice to use some white powder drugs earlier that day at work. Why is Mr. Higgins bringing up the drinking on the job, the drugs at work? Just to make Mr. Herrera look bad. It has nothing to do with what he saw at 12:30 at night on the 25th. It's just to make him look, I don't know, like he's not a good employee.

Something with Mr. Gomez. A [Drug Peddler]. If he can dehumanize these people, then maybe-- then maybe you'll tend to not want to hold his Client accountable, if he can dehumanize who these people are. He doesn't tell you or talk about the fact that Mr. Herrera was speaking to Police the night of this incident. They came to the location right after the shooting. And Detective McMahon spoke to him. . . .

And " [D]etective McMahon is a **RELIABLE WITNESS**. He is not a Drug User I." . . . He has been trained to look for people or know if people have used Narcotics. . . . And he said here, " [I]t was not under the influence. He was not under the influence. He didn't have slurred speech. He was COHERENT. You know, I looked at his eyes. I know the symptoms. He was not under the influence. I. . . ."

Mr. Higgins would like you to believe that because [he took some sort of Narcotic at 4:00 or 5:00 O'clock in the afternoon, that he was still under the influence. . . . And that because he took that DRUG. . . . He couldn't possibly have said, "No." to his Uncle and refused the DRUG in the car. I. . . ."

Mr. Herrera said, "I didn't take it." Now why should you believe him?" (RT.1017-1018)."

Infact, the Prosecutor [Emphasized to the Jury that Detective McMahon was infact a **RELIABLE WITNESS**]. . . . Therefore, I should've been allowed to Impeach Detective McMahon regarding his Motive to lie and perjure himself to protect his LBPD Partner of 11 years, Officer Julio A. Alcaraz from being prosecuted with this Murder/Robberies pinned and charged against me. And in so doing, to "protect their whole Long Beach Police Department from a **Similar LAPD RAMPART SCANDAL** which at that time were "current events" within our Los Angeles County, City of Long Beach (see *Ovando v. City of Los Angeles, Supra.*)."

Therefore, the Prosecutor violated my U.S. Due Process 14th & 8th Amendments Constitutional Rights in failing to disclose the Brady Discovery Material regarding LBPD Officer Julio A. Alcaraz's Indictment, Convictions and whole Investigation against him since 1997.

But the Prosecutor [relied] on Detective McMahon to : corroborate, support, and strengthen what the Prosecutor, McMahon, and the Long Beach Police Department, knew to be the Murder Eyewitness, Mr. Herrera's **FALSE/MISTAKEN/INCORRECT/ PERJURED** testimony on three (3) KEY FACTORS to this murder case Counts 1, 2, & 3, as follows :

1) That Mr. Herrera was in fact under the influence of Drugs and Alcohol at the time of the murder. . . Drugs, Mr. Herrera testified he didn't even know what he snored. . . Mr. Herrera testified he was so tired at work that he snored a "white Sparkley Powder at 5:00 pm (RT. 158-159, 168)."'

But whether Mr. Herrera snored Methamphetamine, ICE, or Cocaine . . . It is an INJUSTICE to believe that any man could have snored any of these DRUGS at 5:00 pm. . . And been SOBER, OR COHERENT 5 to 7 Hours later, at 10 pm to 12 midnight, when the murder occurred. . . Whether Mr. Herrera snored MORE COCAINE with his Uncle in the car, before the murder occurred, or not.

2) Therefore, Mr. Herrera, understandably, **MIS-IDENTIFIED** the murder-weapon as a .45 caliber semiautomatic Handgun. . . When the .30 caliber bullet found during the autopsy reveals: "That the murder-weapon was a .30 Caliber Rifle, not a .45." Which is a **HUGE DIFFERENCE**, a **HUGE MIS-IDENTIFICATION**.

3) Therefore, Mr. Herrera, understandably, also **MISIDENTIFIED** me, as the Murderer. . . I'm 6'2" tall. . . And while Mr. Herrera identified my photo from a Photo Lineup. And while he pointed at me in court, Mr. Herrera testified his description of the murderer was that he was just a little bit taller than himself.

Mr. Herrera testified he's 5'6" tall (RT. 136). Mr. Herrera testified the murderer was at the most 5'7" tall to 5'8". Mr. Herrera testified he was able to see the murderer standing up straight when next to Mr. Herrera's Dodge Ram Pick Up Truck where the murder occurred. And where Mr. Herrera was able to see his height in comparison with himself. When standing next to his own Pick Up Truck at 5'6" tall (RT. 247-248, 960, 136, 211-212):

That's HALF A FOOT TO EIGHT (8) INCHES SHORTER THAN ME at 6'2" tall. Which is another HUGE DIFFERENCE, a HUGE MISIDENTIFICATION!!

Therefore, Detective McMahon testified. . . to corroborate, support and strengthen Mr. Herrera's FALSE/MISTAKEN/INCORRECT/PERSUDED testimony. . . : But LBPD Detective McMahon also testified to corroborate, support, and strengthen Mario Cortez and Luis Velasquez testimony in court in Counts 4 and 5.

Wherefore I'm asking this Honorable Court to acknowledge the 2003 Decision during my Direct Appeal (See Appendix - I). By the three Honorable Justices of the California Court of Appeals, Second Appellate District, Division Five, Armstrong J., Grignon, Acting P.J., and Mosk J., who ruled the following:

"Facts 2. Counts 4 and 5: In January 2000, Luis Velasquez and Mario Cortez were shown a photographic line-up by Police and identified appellant as the man who robbed them on Aug. 14, 1999. . . On rebuttal, Velasquez testified that when appellant robbed him, he said "FUCK Longo, FUCK Chongo." Cortez testified that appellant repeatedly said "FUCK Chongos" while robbing him.

Detective McMahon testified that appellant told the Detective that he was a member of the Westside Longos gang, that none

of his fellow gang members would back him up, and that his attitude was "Fuck the Westside Longos. Fuck the Chongos and the Longos. The Chongos were a rival gang to the Longos. ¹

Appellant was convicted of robbing Velasquez and Cortez (see Appendix - I, at pages 3-4)."

"4. Defense: Appellant's Uncle and Aunt testified that appellant had been with them in Arizona for a week starting September 23, 1999. Appellant himself testified that he was in Arizona on the date of the murder.

Appellant denied robbing Velasquez and Cortez. He also denied telling Detective McMahon that he was a Longo gang member or that his fellow gang members would not stand up for him and denied saying "Fuck the Longos and the Chongos" to the Detective (see Appendix - I , at page #5)."

Discussion, 1. Gang Evidence: Appellant was a member of the Corner Boys subset of the Westside Longos. The Chongos gang was apparently a rival of the Longo gang. Appellant acknowledges that the fact that the robber said, "Fuck Longo, fuck Chongo" to one of his victims and that appellant said "Fuck the Chongos and the Longos" to Detective McMahon has some relevance on the issue of Identity. He contends that the relevance lies in repetition of what is clearly an unusual statement and that the fact that he is a gang member does not make the statement more relevant. We cannot agree.

The only reasonable understanding of the robber's remarks about the "Chongos" and the "Longos" was that he felt hostility towards those gangs. Appellant's statement about the Chongos and Longos was made during a police interview and could have had a number of meanings. For example, if Detective McMahon had asked appellant if he were a member of the Chongos or the Longos and appellant had replied : "Fuck the Chongos and the Longos," appellant's reply would reasonably be understood as denying gang

1: Chongos is the derogatory word to disrespect the Longos Gang by all rival gangs. Saying "Fuck Chongos, Fuck Longos." But it's one (1) same gang.

membership. Such a statement would not be similar to the robber's statement and would not make it more likely that appellant was the robber. Appellant's preface to the statement, stating he was a member of the Longos but that his fellow gang members would not back him up, showed that his statement was expressing hostility towards both gangs.

Appellant's statement thus understood was similar to the robber's statement and did make it more likely that appellant was the robber (see Appendix - I , at pages 5-6)

In fact, I should've been able to [Impeach] LBPD Detective McMahon regarding the Long Beach Police Department having a [Serial Robber] working within their own Police Department. Who they knew, or should've known, that LBPD Officer Julio A. Alcaraz was the one responsible for robbing Civilians for Drugs & Money during the same dates. Same time frame, down to the same hours of the night, same locations (Within half a square mile of the West Substation Long Beach Police Department). As all of the robberies, including the murder, of Counts 1,2,3,4 & 5 that I was FALSELY Convicted of (see Appendix - Q, Alcaraz' Indictment).

Therefore, I should've been afforded my U.S. Due Process 14th Amendment Constitutional Right to [impeach] Detective McMahon regarding his "Motive to lie and perjure himself" testifying: that I had made similar statements to him that the robber had made "Fuck Chongos, Fuck Longos." In order to [escuse] my FALSE CONVICTION to [protect] his partner of 11 years, LBPD Officer Julio A. Alcaraz. . . And to [protect] the whole Long Beach Police Department from a

Similar LAPD RAMPART SCANDAL within their own Long Beach Police Department. *See Ovando v. City of Los Angeles, supra:*

"In 1996, Ovando lived in an apartment building that was being used by the LAPD's anti-gang unit (CRASH) as an observation post. In October, Rafael Perez and Nino Durden demanded entry into Ovando's apartment for no apparent reason. A friend of Ovando who was in the apartment was told to leave. The officers searched the apartment for drugs, but found none. Nevertheless, they handcuffed Ovando and took him to another apartment.

Durden & Ovando began arguing. Although Ovando was unarmed, Durden pulled out his service weapon and shot Ovando in the chest. Seeing Durden pull his gun, Perez also pulled out his service weapon and shot Ovando in the chest. The officers then held Ovando upright & shot him in the head. After the shooting, Durden placed a semi-automatic rifle near Ovando. So that it would appear that Ovando was armed when he was shot. The shooting left Ovando with severe mental and physical injuries, including paraplegia.

Ovando was charged with two counts of assault with a firearm on a police officer and one count of exhibiting a firearm in the presence of a Police Officer. At trial the primary witnesses against him were Perez and Durden. Based on the Officer's FALSE TESTIMONY Ovando was convicted and sentenced to 23 years, 4 months in State Prison.

In August 1998 Perez was charged with 10 Felony Counts involving theft of Cocaine. As part of his plea negotiations, Perez confessed he and Durden had shot an unarmed man and planted evidence in October 1996.

On September 16, 1999, Ovando's conviction was subsequently expunged, overturned and/or invalidated and he was released after serving 2 years, eleven months in prison." *Ovando, 92 F. Supp. 2d 1011, 1014.*

Likewise, in the present case. LBPD Detective McMahon testified to [corroborate, support and strengthen all three (3) of these robbery victims testimony in court against me]. In order to secure my FALSE CONVICTION to protect his Partner LBPD Officer Julio A. Alcaraz from being prosecuted for these murder/robberies. And to protect his whole Long Beach Police Department from a similar LAPD RAMPART SCANDAL, within their own LBPD.

Wherefore, I'm asking this Honorable Supreme Court to Grant me JUSTICE. . . . Grant me review of my Petition for writ of Certiorari. And Grant me Post Conviction Discovery. In particular, Grant me an Order for the [.30 Caliber Rifle Bullet found during the autopsy of Mr. Manual Martinez Gomez to be tested and compared by a Ballistic Expert to all the firearms found in the possession of LBPD Officer Julio A. Alcaraz. And/or to all the reports of all the firearms and ammunition found in his possession]. For I'm Christian, not a murderer! I'm INNOCENT!!

It should be noted: Mario Cortez and Luis Velasquez (robbery victims from Counts 4 & 5) had already accused a different man of these same robberies, Mr. Raymond Serrano.

Mr. Serrano testified in my trial that on August 14 into the early morning hours of August 15, 1999 Long Beach Police Officers raided his Motel Room located on Pacific Coast Highway. And pulled him out of his room in handcuffs and threw him on the ground; without an explanation. Putting him on the curb.

Mr. Serrano testified he lived on West 19th Street (where the robberies occurred). But denied running around Summit Street earlier that evening.

Mr. Serrano testified the Police pulled him out wearing only his Boxers. Shining the Police Car Spot Light on his Face. But he couldn't see inside the car. Mr. Serrano testified he's 6'0" tall. And during my trial he weighed 175 pounds. But he testified on the night Police pulled him out of his Motel Room he weighed around 150 pounds. He testified he always wore his hair short. And in 1999, he was 18-19 years old.

Mr. Serrano testified the Police Kept him on the curb for about 10-15 minutes. And ultimately released him. Mr. Serrano testified he did not know who committed a robbery in the rear of 1533 West 19th Street earlier that night (RT-747-754).

I believe LBPD Officer Julio A. Alcaraz was also part of this Robbery IAVestigation on August 14-15, 1999 (Grave Yard Shift). I believe his Police Reports are also part of the "Murder Book Discovery" which my Attorney Stanley Perlo had given me a copy in preparation for my Preliminary Hearing. But Perpolics trashed it during cell searches in L.A. County Jail.

But the Criminal Complaint is a sworn Affidavit by LBPD Detective David Jones. Which is [evidence] showing that the Long Beach Police Department knew LBPD Officer Julio A. Alcaraz was [robbing] Civilians for drugs & Money during these same dates, same streets he patrolled under the pretext that he was conducting a lawful IAVestigation (see Appendix-R , the Criminal Complaint against Alcaraz).

Therefore, the Prosecutor knew, or should've known, and should have [disclosed] this exculpatory evidence/third party culpability evidence/Impeachment purposes evidence, useful to my Defense.

NOT A HARMLESS ERROR

The Prosecutor's Misconduct failing to disclose LBPD Officer Julio A. Alcaraz's Indictment, convictions, and the whole Investigation against him was "[not a Harmless Error]."
But it was infact a Brady Violation that rendered my whole trial UnConstitutionally Unfair. Violating my U.S. Due Process 14th and 8th Amendments Constitutional Rights Cruel & Unusual Punishment, Deliberate Indifference.

There was [no overwhelming evidence] against me at trial. No DNA, no blood, no fingerprints, no murder weapon. Nor anything that tied me to the crimes. It was all Circumstantial Evidence and Eyewitness testimony.

The only Murder Eyewitness Mr. Herrera testified he had drank 4 beers at work between 4:00pm to 8:00pm, before driving home (RT.159) Mr. Herrera testified he had also stopped to buy a .40 Ounces Tecate Beer on his way home (RT.168). He testified he had no idea what time he even got home (RT.112)

Mr. Herrera testified he had been so tired at work that at 5:00pm he had snored a white sparkley powder some guy at work had given him. Saying, it would wake him up. But he testified he didn't even know what he snored (RT.158-159). Mr. Herrera testified he didn't even know who the drug dealer was (RT.172).

Mr. Herrera testified as he was arriving home he seen his Uncle Mr. Manuel Gomez leaving in his van. His Uncle then drove back around and parked his van across the street from him in his Dodge Ram Pick Up TRUCK (RT.112). Mr. Herrera testified him & his Uncle spoke for a few minutes outside.

Mr. Herrera testified he left the keys in the ignition. And told his Uncle to get inside his Dodge Ram Pickup Truck. While Mr. Herrera went inside to notify his wife that he was home. Mr. Herrera testified when he went outside he found his Uncle in the Driver's seat of Mr. Herrera's Truck (RT.115-117).

Mr. Herrera testified he got into the passenger side of his own Dodge Ram Truck (RT. 116-117). Mr. Herrera testified they began talking, hearing music with the windows down. But the Driver's side window was slightly up. But not much (RT.117).

Mr. Herrera testified when he arrived home he had seen a group of about 8-9 men in front of his residence in the immediate vicinity. They were all wearing black (RT.117-119). Mr. Herrera testified while he and his Uncle were in the truck his Uncle offered him Cocaine. But Mr. Herrera testified he did not take the Cocaine. Mr. Herrera testified his Uncle got a little paper out showing it to him saying, "it's coke do you want a little bit (RT.189-191, 200, 259-260);"

Mr. Herrera testified at some point while sitting in his truck with his Uncle, he noticed 2 men approaching his truck on the Driver's side (RT.119-120). Mr. Herrera testified one (1) suspect stayed behind all the time. But the other suspect turned toward the steering wheel to the front of the driver's side window. Mr. Herrera testified he was only able to see one suspect's face. But not the second suspect (RT.120-122).

Mr. Herrera testified the second suspect was like covering himself (RT.122). Mr. Herrera testified he thought he had seen the first suspect once or twice before (RT.122).

Mr. Herrera testified the suspect arrived asking, "Who are you guys? And kept asking who are you guys (RT.123)?"

Mr. Herrera testified he told the suspect, "I just live here in front. While his Uncle replied to the suspect I'm Ricky's Daddy! Don't you know him? Don't you know us (RT.123-124, 214, 222, 254). We live here (RT.264, 254-255)?" Mr. Herrera testified the suspect had a gun and kept saying he didn't know them (RT.124). Mr. Herrera testified the gun was large. And he thought it was a .45 caliber semiautomatic handgun (RT.223).

Mr. Herrera testified the suspect pointed the gun into the truck and told the two (2) to give him everything they had (RT.126). Mr. Herrera testified he said he didn't have any money. Mr. Herrera testified Mr. Gomez lit a cigarette and said they did not have anything (RT.127).

Mr. Herrera testified Mr. Gomez tried to get the gun by grabbing onto the hand in which the suspect held the gun. Struggling with the suspect for the gun (RT.127, 226) Mr. Herrera testified the suspect stepped away from the truck, look around and asked, "do I shoot him (RT.128-129)?"

Mr. Herrera testified he and Mr. Gomez both said, "No." But the suspect shot Mr. Gomez (RT.129). Mr. Herrera testified he then ran from the truck (RT.133-135).

Wherefore, I urge this Honorable Supreme Court to Grant ME JUSTICE. . . Grant me Review of my Writ of Certiorari. And Grant me Post Conviction Discovery. In particular, to have the .30 caliber rifle bullet found during the autopsy, tested and compared to all the weapons found in the possession of

LBPD Officer Julio A. Alcaraz. And/Or to the Reports of the Weapons and ammunitions found in the possession of Alcalaz. Which is Brady Discovery Material the Prosecutor did not provide to my Defense Counsel at the time of my [Unfair] trial.

ALIBI WITNESSES

I had Alibi Witnesses placing me in Phoenix Arizona on the night of the murder September 25, 1999. I testified I was in Phoenix Arizona with my Uncle Jaime Diaz on the night of the murder (RT. 826). I testified I was not at the location of the robbery of Mario Cortez and Luis Velasquez (RT. 821-822).

Mr. Jaime Diaz testified at trial he was my Uncle on my Mother's side. He testified he was living in Phoenix Arizona in 1999. He testified he was employed as a Truck Driver in Phoenix. And on Sept. 23, 1999, he drove from Phoenix Arizona to Long Beach and Los Angeles California to check out two (2) Vehicles his Sister and Brother in Law had in their home in South Central L.A.

Which they had arranged for Mr. Diaz to drive/export to Guatemala. Mr. Diaz testified after arriving to his Sister Gladys Alvarez house at 11:00 am he visited with her till 2:00pm. Mr. Diaz testified he then drove to his Sister Rosemary Carranza's house, Selvin Carranza's Mom, in Long Beach, arriving there about 2:30-2:35 pm. At which point he encountered me his nephew.

Mr. Diaz testified I asked him if I could go visit with him to Phoenix Arizona and he said "yes." Mr. Diaz testified after being in my house from 2:30 till about 6:00pm. he then drove back to Phoenix Arizona with me (RT. 755-759, 768, 770-774, 782). Mr. Diaz testified we then arrived to Phoenix around midnight.

Mr. Diaz testified I stayed with him in his house with his family for about a week, till the first Sunday of October (being Oct. 3, 1999 (RT. 769, 758-759, 771, 782). Mr. Diaz testified on the first Sunday of October 1999, he brought me back home to Long Beach California. For he had also come to fix the two (2) cars my Aunt had at her house. Which Mr. Diaz was going to be driving to Central America Guatemala (RT. 787, 758-759, 771, 782).

Mr. Diaz testified he remembered specifically Sept. 23, 1999 because of the two (2) cars they had arranged to drive to Guatemala. Mr. Diaz testified he had spoke to his brother in law the previous day Sept. 22, 1999, between 6-7pm. And they agreed Mr. Diaz would drive from Phoenix to LA to see the two (2) cars they were intending to drive to Guatemala (RT. 770).

Mr. Diaz testified he drove from Phoenix to Los Angeles twice in October 1999. On Oct. 3, 1999, then Oct. 14, 1999, when he came to renew his passport in the Consulate of Guatemala, in L.A., CA, which he submitted as evidence, Defense Counsel's "EXHIBIT-E" at trial (RT. 779-781, 782, 787). Showing the two (2) dates Oct. 14, 1999 and Oct 14, 2004.

Mrs. Doris Diaz testified in my trial she was at the time living in Phoenix Arizona. And flew in specifically for my trial. Arriving the previous night (RT. 790). Mrs. Diaz testified she was in the process of divorcing my Uncle Jaime Diaz (RT. 790-791). Mrs. Diaz testified on Sept. 23, 1999 her husband Mr. Diaz had drove from Phoenix to Long Beach and on his way back home I arrived at her house with him (RT. 791-794).

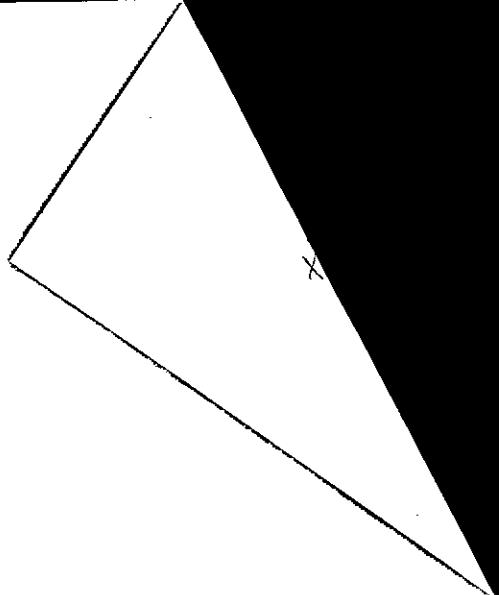
Mrs. Diaz testified she remembered Sept. 23, 1999, as being the date her husband came to California because he was going on a trip to drive the two (2) vehicles to Guatemala. Mrs. Diaz testified she had come to testify on my behalf because she found it unfair that I was being charged for a murder that occurred during the time I was with her family in Phoenix Arizona. Between the dates of Sept. 23, 1999, and October 3, 1999 (RT. 795 - 799)

Mrs. Diaz testified on Oct. 3, 1999, she and her daughter, her husband and I had drove back to Los Angeles. After having me visiting for one (1) week (RT. 798 - 799).

Mrs. Doris testified she & her husband had been outside the courtroom when Detective McMahon approached them. Asking what they were expecting to testify about. And they both refused to speak to him because he had identified himself as an LBPD (RT. 797 - 798, 762 - 763),

Be Informed: I had asked my Mother & my Uncle Jaime Diaz not to speak to Detective McMahon nor to any Long Beach Police Officers. Sharing with them that Detective McMahon had even threatened to knock my teeth out trying to force me to give him a False Confession during an Interrogation on Feb. 08, 2000. So to not speak to them.

My Mother Rosemary Carranza testified I was her son. Born to her June 27, 1981. And in September 1999 I was still living in her house along with my two older brothers and one younger brother. And my Dad. Keeping my clothes at home (RT. 725 - 729). My Mother Rosemary Carranza testified on Sept 23, 1999,



I called her at [redacted] work and asked her permission to go to Phoenix Arizona with my Uncle Jaime Diaz. And she said yes (RT. 728, 744). My Mother Rosemary Carranza testified I was in Arizona for about one week and a half (RT. 729).

She testified while living in her house in August & September of 1999, I would spend about 6 nights per week at home (RT. 731). My Mother testified when I wasn't home I was with friends or a girlfriend (RT. 730). My Mother testified the reason she remembered that was the date I went to Arizona it's because Sept. 23, 1999, was the date my Uncle had come to California from Arizona. And I went with him (RT. 736-737).

My Mother Rosemary Carranza testified she also refused to talk to Detective McMahon (RT. 733-735).

In fact, there was no overwhelming evidence against me at trial.

Mario Cortez and Luis Velasquez both testified they attended a Baptism Party at 1533 West 19th Street, Long Beach CA. Which Cortez had hosted for his daughter. (RT. 360-364, 450-452).

Cortez & Velasquez (Counts 4 & 5) both testified one suspect robbed 7 to 8 men attending the party with a small .22 caliber semiautomatic handgun (RT. 365-369, 461-467). Velasquez testified he was robbed for \$50.00 (RT. 370-371). Cortez testified he was robbed for his phone and \$15.00 (RT. 461-462). The suspect then robbed the other 7-8 men (RT. 372-373). They both testified the suspect then took off running eastbound down the alley (RT. 469-470, 375-377).

Cortez & Velasquez both testified they followed the suspect in Cortez's pickup truck. And saw him check into a Motel (RT. 472-475

379-380). Cortez & Velasquez both testified when they first saw the suspect at the Motel they truly believed he was the robbery suspect who had just robbed them 20-45 minutes earlier. For he was wearing same brown colored pants with a white tank top. Like the suspect was wearing underneath a zippered brown shirt. Same hair, same physical, same height 5'10"-5'11" tall, no facial hair, same slender faces, same weight. Same body build. They were convinced he was the robbery suspect. So they went to Cortez house and called the Long Beach Police Department (911). Cortez testified 20-45 minutes later the LBPD responded after Cortez called a second time (RT. 474-477, 496-500, 499-460, 408-415, 421-423, 405).

Velasquez testified he never called the police only Cortez did (RT. 408, 421). Cortez testified one LBPD Officer responded to his house. And he told the Officer they had followed the suspect to a Motel on Pacific Coast Highway and saw him enter a Motel room. So they took the police to the Motel where there were other Officers already waiting. And LBPD Officers raided the suspect's Motel room.

Cortez & Velasquez testified they were in the back seat of a patrol unit when Officers raided the suspect's Motel Room shining the light on his face. They then informed the LBPD Officers they didn't think he was their robbery suspect after all (RT. 421-424, 441-442, 496-498).

Cortez & Velasquez both testified they each drank 4-6 beers at the party before the robberies occurred. And while they denied being drunk when the robbery occurred, they had both accused

someone else of these same robberies within an hour after they had been robbed (RT. 493-494, 436).

Cortez and Velasquez both testified the very next day Aug. 15, 1999, around 10:00 am to 12:00 pm they seen me on 19th Street and Harbor Avenue with a few friends. And they now believed that I was the robbery suspect. And went to [confront] me. Along with a friend of Cortez, his neighbor (RT. 479-482).

Cortez and Velasquez both testified even after our confrontation they never went to the police (which was literally 3 blocks in front of us. We could see the West Substation parking lot. Neither did they called the police 911 to report nor accuse me of any crime (RT. 486-488, 424-433).

Cortez testified he seen me again about one month and a half later (on Oct. 10, 1999) being stopped by LBDP Officers. While I was on Caspian Ave.. But yet he didn't go to the police to accuse me of any crime right there and then. Neither did he go home to call the police 911 to report me of any crime.

Infact, Cortez testified he seen me 3-4 different times. and never called the police to report nor accuse me of any crime (RT. 486-488, 495-497, 501-504). Cortez testified he just let it go (RT. 488-490). Cortez & Velasquez testified they were not [armed] with a gun during our confrontation. And the police report that stated they said they were armed with a gun during our confrontation was mistaken (RT. 505, 472, 409, 429, 438).

Cortez testified on January 12, 2000, LBDP Detective McMahon took a six pack photo line up of me to Cortez and

From that day forward Cortez began accusing me to the police of being their robbery suspect (RT. 482-485).

Velasquez testified he had not seen me since the day of our confrontation. Velasquez testified on January 05, 2000, Detective McMahon took a six pack photo lineup of me to Velasquez job place. And from that day forth Velasquez began accusing me to the LBPD of being their robbery suspect (RT. 433-435).

Be Informed: LBPD Detective McMahon testified he was assigned to [homicide] in 1999-2000. And as a homicide Detective he would normally not work [robbery] cases. Unless, it was involved with the murder (RT. 550). McMahon testified while investigating the murder-robbery of Mr. Gomcz dated Sept. 24-25 1999, he subsequently reviewed a robbery report submitted naming Mario Cortez and Luis Velasquez dated Aug. 14-15, 1999, in which no arrests had been made.

Therefore, McMahon took a six (6) pack photo lineup of me to Cortez & Velasquez on January 12, 2000 and January 5, 2000 (RT. 550-554).

Please Notice: McMahon only showed Cortez & Velasquez one (1) six pack photo lineup - A, to them with my photo in it. And they knew me from the day of our confrontation (RT. 550-554).

However, according to the Criminal Complaint which is an AFFIDAVIT by LBPD Detective David Jones, by January 5th and 12th 2000, the Long Beach Police Department already had the October 1999 Grand Jury Indictment against LBPD Officer Julio A. Alcaraz for the March 2, 1999, strong armed robbery (see APPENDIXES Q and R).

Therefore, it's my allegation and belief, that LB PD Officer Julio A. Alcaraz was the **primary suspect** for the robberies of Aug. 14-15, 1999 (Counts 4 & 5). And for the murder/robberies of Sept. 24-25, 1999, (Counts 1, 2, & 3). . . . Because if he wasn't their **primary suspect** then, he should've been!!

Infact, on January 27, 2000, LB PD Officer Julio A. Alcaraz committed yet another strong armed robbery of an Undercover agent for six (6) Kilos of cocaine (see APPENDIXES Q and R). And was ultimately arrested.

During cross examination of Detective McMahon my Defense Counsel asked and insisted: "Why, if on Oct. 14, 1999 McMahon had an eyewitness, Mr. Herrera, making a photo identification of me, accusing me of murder, why was I not immediately arrested? Was he waiting on Scientific Evidence? Or what was he hoping for? What other evidence did he need to arrest me? (For I was never arrested on the murder case. But on Feb. 8, 2000, I was arrested on a \$250.00 Traffic Ticket that had become a warrant for my arrest. Nearly 4 months after Mr. Herrera had accused me of murder.)"

Detective McMahon testified he never arrested me because he was to [busy]. . . . Working other murder cases, wanting to speak to me. And it was the new millenium, Y2K. For which he had to work a lot from 6:00pm to 6:00am for about 2 weeks. For which he didn't arrest me (RT. 548-549, 586).

McMahon testified he was simply to busy to have me arrested. For while he had some addresses for me on file, he testified he sent some black & whites to check out the addresses. But never

had me arrested. McMahon testified he wanted to do some more investigation and had other cases they were working on. McMahon testified he was not waiting on Scientific Evidence nor anything like that. But wanted to show Cortez & Velasquez (Counts 4 & 5) a six pack photo lineup of me (RT. 586-590).

Infact, in Count #6, the only ones who accused me of robbery even against my own girlfriend, Brenda Garcia were two(2) LBPD Officers. The prosecutor and LBPD Officers were so determined to secure my Conviction they even arrested my girlfriend Brenda Garcia. Trying to pressure her to go to court to falsely accuse me of robbery.

Issuing her a subpoena to appear in court to testify against me. After she had made it clear to them she would not go to court. And would not falsely accuse me of robbery. She testified she never told any Officers she wanted me prosecuted for robbery. She testified she never knew the Police was charging me for a robbery against her. She just knew it was a Domestic case (RT. 316)

Brenda Garcia continuously denied being robbed. She testified she never told any Police Officers that it was a robbery. She continuously testified we were just fighting (RT. 309-310, 315-316, 322-323).

Brenda Garcia testified we had a fight after I seen her getting dropped off by her ex boyfriend. An argument ensued. She testified she got her 2 work bags containing her Cocktail Waitress Uniform and her purse. And said she was leaving. And left.

REASONS FOR GRANTING THE PETITION

It's in our Nations best interest that [no innocent man] should be FALSELY CONVICTED, FALSELY IMPRISONED without the U.S. Due Process 14th & 8th Amendments Constitutional Rights to a fair trial. . . I'm INNOCENT. It's Cruel & Unusual Punishment that I was FALSELY CONVICTED and been FALSELY IMPRISONED for over 22 years now. As a direct result of prosecutorial misconduct failing to disclose Brady Discovery Material to my Defense Counsel. Exculpatory Evidence/Third Party Culpability Evidence/Impeachment purposes Evidence:

That LBPD Officer Julio A. Alcaraz had been Indicted and Convicted for a spree of strong armed robberies of Civilians for drugs and money. And the whole investigation the LBPD had against him since 1997 till January 27, 2000, when arrested (see Appendixes Q and R, Alcaraz's Indictment and Criminal Complaint)

In *Brady v. Maryland*, 83 S. CT. 1194, *supra*, this U.S. Supreme Court stated:

"We now hold that the suppression by the prosecution of evidence favorable to an accused upon request, violates Due Process where the evidence is material either to guilt or to punishment irrespective of the good faith or bad faith of the prosecution."

My Defense Counsel had filed a Motion titled: Request for Pretrial Discovery (see Appendix-N).

In preparation for my July 26, 2000, preliminary hearing my Defense Counsel at that time, Stanley Perlo, gave me a copy of my Murder Book (Discovery). In it I read LBPD Officer Julio A. Alcaraz's Police Report from the night of the murder/robberies (Counts 1, 2 & 3) dated Sept. 25, 1999.

But what we never received was the Indictment, Criminal Complaint and the whole Investigation the LBPD had against LBPD Officer Julio A. Alcaraz since 1997 till January 27, 2000. Which is all Evidence we could've used to Impeach LBPD Officer Julio A. Alcaraz. And to Impeach all six (6) of the LBPD Officers who testified against me at trial.

In *Miller v. Pate*, 87 S.Ct. 785, 386 U.S. 1 (U.S. Ill 1967) this U.S. Supreme Court reversed:

"Where pair of man's undershorts which were repeatedly described as "bloody shorts" in prosecution for murder of an eight-year old girl during brutal sexual attack constituted a vital link in circumstantial evidence on which defendant was convicted, although prosecutor knew at trial that shorts were stained with paint, deliberate misrepresentation invalidated conviction."

Likewise, in the present case, the prosecutor knew at the time of my trial that the murder weapon was a .30 Caliber Rifle, not a .45 caliber semiautomatic handgun like the eyewitness, Mr. Herrera, on drugs and alcohol mistakenly thought it was (RT. 593-594). . . So Detective McMahon's testimony that I had made statements to him that I was a Westside Longo Gang member, that I was always strapped (armed) with a Smith

and Wesson .45 caliber semiautomatic handgun with 15 bullets in the clip and one in the chamber. . . constituted a vital link in circumstantial evidence that made it more likely for the jury to believe that I was the murder suspect because according to Detective McMahon I always carried the same caliber weapon the murder eyewitness described a .45.

Therefore, I should've been allowed to Impeach LBPD Detective McMahon regarding his Motive to lie and perjure himself to protect his partner LBPD Officer Julio A. Alcaraz and to protect his whole Long Beach Police Department from a similar LAPD RAMPART SCANDAL within their own LBPD.

In *Miller v. Pate, supra*, this U.S. Supreme Court stated:

"More than 30 years ago this Court held that the Fourteenth Amendment cannot tolerate a state criminal conviction obtained by the knowing use of false evidence. *Mooney v. Holohan*, 294 U.S. 103, 79 L. Ed. 791, 55 S. Ct. 340, 98 A.L.R. 406. There has been no deviation from that established principle. *Napue v. Illinois*, 360 U.S. 264, 3 L. Ed. 2d 1217, 79 S. Ct. 1173; *Pyle v. Kansas*, 317 U.S. 213, 87 L. Ed. 214, 63 S. Ct. 177; *cf. Alcorta v. Texas*, 355 U.S. 28, 2 L. Ed. 2d 9, 78 S. Ct. 103. There can be no retreat from that principle here." *Id.* at 788, 386 U.S. 7.

The Honorable Justice Douglas of this U.S. Supreme Court once warned:

"The function of the Prosecutor under the Federal Constitution is not to tack as many skins of victims as possible to the wall. His function is to vindicate the right of the people as expressed in the laws,

and give those accused of crime a fair trial.”
Donnelly v. DeChristoforo, 416 U.S. 637, 648-49, 94
S.Ct. 1868, 1874 (1974) Douglas, J. dissenting

Last, in December 2019, while out to court on my Civil Action. And housed in a Federal Detention Center without my legal property. Which was at Corcoran State Prison. The U.S. District Court for the Central District of California in L.A., sent me the Indictment & Criminal Complaint against LBPP Officer Julio A. Alcaraz (See Appendixes Q & R).

Which is the Newly Discovered Evidence, Prosecutors Misconduct, Brady Violation. In Mid January 2020 I returned to State Prison. By the time I got my property the Emergency Pandemic COVID hit California and our State prisons. In Nov. 2020, I tested positive for COVID And experienced long lasting symptom into 2021. In fact, I suffer from GERD & was throwing up daily for months.

In fact, I developed a sis in my esophagus. We were on continuous lockdowns/Quarantines no law library access. No Copies, No paper, even toilet paper was limited at one point. I lost 5 loved ones, family members of mines. Indeed, millions have died. I contracted COVID again January 2022. While I healed, my Aunt Gladys died from it January 8, 2022.

Wherefore, I ASK for an EMERGENCY EXCEPTION to the rules of timeliness and successive Writ of Habeas Corpus in California. But also because I’m [Actually INNOCENT]! Wherefore, I ASK the Honorable Justices of this Honorable Court Grant me JUSTICE, Reverse my Conviction & Release me from prison.

Thankyou for Every Consideration this Court is in
position to extend to me.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,


Selvin Orlando Carranza

Date: March 24, 2022