

ORIGINAL

RUBEN HERRERA #AU5012.
Valley State Prison
C-1, 26-410W, 1100
PA005 Box 96, Wall
Chowchilla, CA 93610.

IN PRO SE, PETITIONER

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001

RUBEN HERRERA
Plaintiff,

CASE NO

V.

SECRETARY OF CORRECTIONS, (CDCR)
SECRETARY OF (CDCR) Fisher, Warden
(A).
Defendant.

MOTION FOR EXTENSION OF TIME
TO SUBMIT

Motion for leave to proceed in Forma pauperis- Rule 39, USCS supreme ct. R. 10. part III Jurisdiction on writ of CERTIORARI Under JURISDICTION 28 USCS §636 (a) (B) (c) (e) and Brady Law penal C. §1054.1 subd (d) Requires the disclosure of Material Exculpatory DNA Evidence, Existing in this case U.S. penal c. §1054(e) Appealable under section §1237. subd (b) and USCS Fed, Rules Evidence R.702 title IV. Parties.

DATE: September 10/2021 TIME 8:00 AM.

Hearing Requested.

Petitioner Ruben Herrera #Au5012, proceeding in propria person, hereby approaches this Honorable Court, with these declaration: Seeking for Extension of time to can file a petition for a writ of CERTIORARI, in Affidavit or Declaration support of Motion for leave to proceed in Forma pauperis, which has (90) days from the DATE of the entry of the final Judgment in the United States Court of Appeals or highest State appellate court, or 90 days from the denial of a timely filed petition for rehearing.

According Supreme court Rule 13.(5). A extension of time must be filed with the CLERK at least (10) dayss before the date the petition isdue, an application to extend the time to file a petition for writ of CERTIORARI.

For many reasons, the petitioner could not have had submitted this indigent petition for writ of Certiorari, into the (Rule of this court) time for file it, (90 days) from the DATE of the negation of UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT; (of CA.) Occurred on (Jun, 17, 2021). A petition based on GRANTS and ISSUES over the State presecution NOT complying with Brady Law in this case, case number(Sup. at NO. PA078949.) Under the Docket Entry NO. 21-55314: D.C. NO.5:21- cv -00329-CJC-JPR. (see this in attached page in(Appendix G) and also see

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1 page from the Ninth Circuit in (Appendix M.) The negation about the Appellant's
2 OBJECTIONS and as a Motion for RECONSIDERATION of (COA) or Certificate of
3 Appealability, issues, under 28 U.S.C. §2253 (c) (2) In which, the suppression of
4 RELIABLE Petitioner's DNA test result Medico Forensic Report Evidence, Under
5 Federal Rules of Evidence 702, Satisfys the showing of the constitutional violati-
6 ones, According at the case of 556 U.S. 449:: Cone V. Bell :: December 9, 2008.
7 in which the United States Supreme Court, remanded, based on Fourteenth Amendment
8 which imposes on States certain duties consistent with their sovereign obligation
9 to ensure "that Justice shall be done" in ALL CRIMINAL prosecutions. A Petition-
10 er's Right violated, under Brady Law, and Rules of Federal R. crim. P. 16. and
11 USCS Federal Rule of Evidence 702, and also a Discovery Rule of the court Vilated
12 in trial on July of 2014.

13 Those Issues could be suported by the Newly Discovered Evidence, such
14 Evidence could not have been discovered, and produced at trial. 315 P. 2d5, 11. see
15 Fed. R. Crim. Proc. 33; Fed. R. civ. proc. 60 (b) As the petitioner's Ruben Herrera
16 's Medical Forensic Scientific Biological DNA test result Report Evidence, NOT
17 presented to Jurors as a Material Exculpatory DNA Evidence favorable to petition-
18 er (see this existing Exculpatory DNA Evidence in attached page in (Exhibit G)
19 under USCS Federal Rules of Evidence 702. Which violates the provision of the Law
20 and the reciprocal discovery scheme detailed in penal codes §§§1054-1054.9 and
21 §1054.1 subd (d) Other express statutory provision as mandated by the U.S.
22 constitution penal code §1054 (e) Which requires the disclose and Useal of a
23 Discovery & inspection Brady material, Jurisdiction & venue HN15, to defense be
24 used it in any court of Appeals.

25 According Brady V. Maryland 373 U.S. 83, 10 L Ed 2d 215 83, S ct. 1194 (1963)
26 and Daubert V. Merrell Dow Pharmaceuticals Inc. 509 U.S. 579 (1993). The Supreme
27 court recognized this problem in Daubert V. Merrell Dow Pharmaceuticals Inc. (Why
28 NOT in the petitioner Ruben Herrera's case (No. PA078949) The court here ruled
testimony regarding "Scientific knowledge", which must be both consistent and
valid to meet" a standard of Evidentiary reliability", but that has not elimina-
te wronful conviction, based on faulty forensics, as the issues of the petitioner
denegated by the UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA on
Mach 16, 2021. and UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT on jun 17,
2021. (with the excuse that the petitioner hasn't made the necessary as to the
court's jurisdiction over the petitioner's claims) see it in (Appendix J) pages...

For which he is looking for the opportunity to EXPAND the time to file
this petition of CERTIORARI, to fixt those erros cometed by the State prosecution
by NOT complying with Brady Law. By denied the disclose of material Exculpatory
Evidence favorable to petitioner, EXISTING IN THIS CASE (sup. at No. PA078949.) and
suppressed out of the presence of the Jurors and Discovery Records of the courts,
as a material Exculpatory DNA Evidence favorable to petitioner Ruben Herrera,
which violates the constitutional Mandate Discovery Rule of the court into of U.S.
and also violates the CONFRONTATION CLAUSE OF THE LAW, as the petitioner's Right
undert 14th Amendment, to be using any material Exculpatory in his defense, which
constitutes on a Brady violation, by no let him use his DNA test result repor. in
his petitions to appeal his conviction.

According at the Article III. Judicial power. section 2. clause 2 Jurisdic-
tion of Supreme court in all cases affecting, Ambassadors, other public ministers
and counsuls, and those in which a State shall be party, the Supreme court shall
have original JURISDICTION IN ALL THE OTHER CASES, before mentioned, the Supreme
court shall have APPELLATE JURISDICTION, both as to law and fact, wiht such
Exceptions, and under such Regulations as the congress shall make.

Based on these constitutional Rights violated in the case, (no. PA078949) of

1 the petitioner RUBEN HERRERA. He would like to REQUEST this HONARABLE SUPREME
2 COURT OF JUSTICE, the reconsideration over the reasons, for which this motion of
3 CERTIORARI could be submitted late in your office, if the court Authorize it.

4 Based on .

5 (1) As a layperson in the law, and an incarcerated inmate, petitioner has
6 limited access to the authorities and materials necessary to further his legal
7 proceeding .

8 (2) The prison law library is not opening as a regulate time because the
9 COVID-19. puts a new regulations of time of visit, NO assure the opening of it.
10 which avoided all time the file(d) of this certiorari, because NO legal material
11 could be used in this filing.

12 (3) Unfortunately the petitioner Ruben Herrera, an indigent inmate without
13 any family suport to assist petitioner in this legal affore, move over due to
14 petitioner individual Medical capacity involving petitioner's medication Diagnost
15 "MULTIPLE SCLEROSIS" (one of the reasos for which the petitioner was putting in
16 transfer to another medical FACILITY of V.S.P.) See attached page in (Appendix H)
17 Because of this Diagnostic, petitioner is unable to work a prison job that would
18 afford the poin that petitioner's detiriorate state is effecting his ability to
19 fight this case, from octuber of 2020, based on the COVID-19. which was infecting
20 him on september of 2020. from which his near death, provoking in him Multiple
21 sclerosis.

22 (4) On August 27, 2021. Petitioner was trasfered from C.V.S.P. 19025, W
23 Wiley's Well Rd. Blythe CA. 92225. to Valley State Prison P.O. Box 96, Chowchilla
24 a, CA. 93610. where the law library is closed the most time, in the weekens
25 because the yeards were infected with the COVID-19. NO law library to can help
26 the petitioner to file this CERTIORARI NO even to make copys of legal documentat
27 ion, and also, his persanal propertys were retained for aweek, because the prison
28 put all inmate in quarentine.

THEREFORE, for these reasons stated above, petitioner respectfully request
an enlargement of time in which to file this Certiorari, by...

Respectfully submitted at MADERA COUNTY CALIFORNIA,

I declare under penalty of perjury under the laws of the U.S. and State
of California that the foregoing is true and correct (pursuant to 28 USCA, 1746(2))

DATE: 9/10/2021 Birthday: 06-09-73 Signature: Ruben Herrera

Name: Ruben Herrera AU5012.

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