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6 Case No.: 22-5814

7
8 In the
9 Supreme Court of the United States
10

11 Christopher Allred - Petitioner

12 v.

13 State of Washington - Respondent
14

15 Petition for Rehearing
16
17
18
19
20

21 [Christopher Allred, DOC # 392466]

22 Unit G, Cell GB-19

23 Coyote Ridge Corrections Center

24 P.O. Box 769

25 [Connell, WA 99326]
26
27
28

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OFFICE OF THE CLERK
SUPREME COURT, U.S.

Case No.: 22-5814

In the
Supreme Court of the United States

Christopher Allred - Petitioner

v.

State of Washington - Respondent

Proof of Service

I, Christopher Allred, do swear or declare that on this date, January 17, 2023, I have served the enclosed Petition for Rehearing on every other person required to be served, by depositing an envelope containing the above documents in the U.S. mail, properly addressed to each of them, and with first-class postage prepaid.

The name and address of those served are as follows:

State of Washington

Office of the Attorney General

1125 Washington Street SE

P.O. Box 40100

Olympia, WA 98504

I declare under penalty of perjury that the foregoing is true and correct. Executed on January 17, 2023.

C. Allred

- Christopher Allred - Petitioner, Pro Se

Case No. : 22-5814

In the
Supreme Court of the United States

Christopher Allred - Petitioner

v.

State of Washington - Respondent

Declaration of Good Faith

I, Christopher Allred, do swear or declare or certify that my
Petition for Rehearing is presented to the Court in Good Faith
and not for delay.

I, Christopher Allred, declare under penalty of perjury that the
foregoing is true and correct. Executed on January 17, 2023.

Respectfully submitted,
Ch Allred

Christopher Allred

Petitioner, pro se

Christopher Allred, DOC #392466

Unit G, Cell GB-19

Coyote Ridge Corrections Center

P.O. Box 769

Connell, WA 99326

Case No.: 22-5814

In the
Supreme Court of the United States

Christopher Allred - Petitioner

v.

State of Washington - Respondent

Declaration of Grounds

I, Christopher Allred, do swear or declare or certify that this Petition for Rehearing briefly and distinctly states the grounds, and that the grounds are limited to intervening circumstances for substantial or controlling effect or other substantial grounds not previously presented.

I, Christopher Allred, declare under penalty of perjury that the foregoing is true and correct. Executed on January 17, 2023.

Respectfully submitted,
C. Allred

Christopher Allred

Petitioner, Pro Se

Christopher Allred, DOC #392466

Unit G, Cell GB-19

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P.O. Box 769

Connell, WA 99326

Case No. : 22-5814

In the
Supreme Court of the United States

Christopher Allred - Petitioner

v.

State of Washington - Respondent

Certification of Counsel

I, Christopher Allred, do swear or declare or certify that I am
a Pro Se Petitioner, not represented by an attorney.

I, Christopher Allred, declare this under the penalty of perjury
that the foregoing is true and correct. Executed on
January 17, 2023.

Respectfully submitted,
C. Allred

Christopher Allred

Petitioner, Pro Se

Christopher Allred, DOC # 392466

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Table of Contents

		<u>Page</u>
3	• Cover Page	—
4	• Proof of Service	—
5	• Declaration of Good Faith	i
6	• Declaration of Grounds	ii
7	• Declaration of Counsel	iii
8	• Table of Contents	iv
9	• Table of Authorities	v
10	• <u>Hurtado</u> Quotes	viii
11	• Petition for Rehearing - Grounds	1
12	• Conclusion	15
13	• Appendix	—
14	- #1	14
15	- #2	0
16	- #3	R1
17	- #4	R2
18	- #5	R3

Table of Authorities

U.S. Constitution

Page

- 5TH Amendment: No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury...

... 8, 9, 10, 13

- 14TH Amendment: 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.

... 2, 3, 4, 10, 11, 13

Washington State Constitution

Page

- Article I, Section 25: Offenses heretofore required to be prosecuted by indictment may be prosecuted by information, or by indictment, as shall be prescribed by law.

... 9

Washington State Rules, Laws, or Statutes

Page

- CrRLJ 3.2.1(g)(1): ... Jurisdiction vests in the superior court at the time the information is filed.

... 6

Table of Authorities (Cont.)

		<u>Page</u>
3	• <u>RCW 10.73.090 (1)</u> : No petition or motion	6
4	for collateral attack on a judgment and sentence	
5	in a criminal case may be filed more than one	
6	year after the judgment becomes final if the	
7	judgment and sentence is valid on its face and was	
8	rendered by a court of competent jurisdiction.	
9		
10	<u>Case Law</u>	<u>Page</u>
11	• <u>Bellows v. Adams</u> , 2019 U.S. Dist. LEXIS 176744	13
12	• <u>Carmen Group, Inc. v. Xavier University of</u>	9-10
13	<u>Louisiana</u> , 41 F. Supp. 3d 8; 2014 U.S. Dist.	
14	LEXIS 61644	
15	• <u>DeFuria v. Odegaard</u> , 84 Wn. 2d 617, 529	7
16	P. 2d 438 (1974)	
17	• <u>Dewitt v. Mullen</u> , 193 Wn. App. 548, 375	9
18	P. 3d 694; 2016 Wash. App. LEXIS 856	
19	• <u>Henderson v. Cronvich</u> , 402 F.2d 763, 1968	10
20	U.S. App. LEXIS 5011	
21	• <u>Hurtado v. California</u> , 110 U.S. 516, 538,	1-14
22	U.S. Ct. III, 28 L. Ed. 232 (1884)	
23	• <u>In re Humason</u> , 46 F. 388; 1891 U.S.	10
24	Dist. LEXIS 50	
25	• <u>In re PRP of Vinh Quang Tran</u> ; 2017	7
26	Wash. App. LEXIS 2277	

Table of Contents (cont.)

Case Law

Page

- Keating v. Rubin; 2006 U.S. Dist. LEXIS 117891 7
- Martin v. Hunter's Lessee, 14 U.S. (1 Wheat) 304, 4 L. Ed. 97 (1816) 7, 8
- Martinez v. Shapp, 859 F. Supp. 170; 1994 U.S. Dist. LEXIS 984 2
- McCray v. United States, 49 L. Ed. 78, 195 U.S. 27 (1904) 2
- Marford v. Hacker, 394 F.2d 169 (1968) 1
- Ramos v. Louisiana, 140 S. Ct. 1390; 206 L. Ed. 2d 583 (2020) 1, 8
- State v. Barnes, 146 Wn. 2d 74, 86, 43 P.3d 490 (2002) 2
- State v. Karpov, 195 Wn. 2d 288, 458 P.3d 1182, 2020 Wash. LEXIS 125 7
- State v. Melvorn, 32 Wash. 7, 72 P. 489, 1903 Wash. LEXIS 370 6
- State v. Parmelee, 2012 Wash. App. LEXIS 2182 9
- State v. Schapiro, 28 Wn. App. 860, 626 P.2d 546 (1981) 13
- Texas v. United States, 555 F. Supp. 3d 351; 2021 U.S. Dist. LEXIS 156642 10

Hurtado Quotes

The United States Supreme Court clearly stated four (4) different times in the majority opinion / decision of Hurtado, that an information comes after a preliminary hearing:

- 1) "...authorizes prosecutions for felonies by information, after examination and commitment by a magistrate, without indictment by a grand jury... examination by a magistrate, in the presence of the accused, who is entitled to the aid of counsel and the right of cross-examination of witnesses... and upon a certificate thereon by the magistrate, that a described offense has been committed and there is sufficient cause to believe the accused guilty thereof, and an order holding him to answer thereto, requires an information to be filed against the accused in the superior court of the county in which the offense is triable, in the form of an indictment for the same offense."

CONTINUED →

- 2) "Offenses heretofore required to be prosecuted by indictment shall be prosecuted by information after examination and commitment by a magistrate, or by indictment, with or without such examination and commitment, as may be prescribed by law."
- 3) "...proceedings before the examining and committing magistrate in cases of persons arrested and brought before them upon charges of having committed public offenses... if it appears from the examination that a public offense has been committed, and there is sufficient cause to believe the defendant guilty thereof, the magistrate must indorse on the depositions an order, signed by him, to that effect, describing the general nature of the offense committed, and ordering that the defendant be held to answer thereto... When a defendant has been examined and committed... it shall be the duty of the district attorney, within thirty days thereafter, to file in superior court of the county in which the offense is triable, an information charging the defendant with such offense."
- 4) "Tried by these principles, we are unable to say that the substitution for a presentment or indictment by a grand jury of the proceeding by information, after examination and commitment by a magistrate, certifying to the probable guilt of the defendant, with the right on his part to the aid of counsel, and to the cross-examination of the witnesses produced for the prosecution, is not due process of law."

1 Why did the U.S. Supreme Court in Ramos (footnote) say that Washington
2 State follows Hurtado? Why does Washington's A.G. say something
3 similar? Why do Washington courts claim to uphold Hurtado? If
4 the experts are claiming Washington State follows or upholds
5 Hurtado, then why doesn't the Hurtado rule apply to me?

6
7 Obviously, the State of Washington doesn't follow, in full, the binding
8 precedent of Hurtado v. California, handed down by the U.S. Supreme
9 Court 139 years ago. A ruling that is still enforced, recognized,
10 has authority, and is still considered good law today.

11
12 I don't know why the Court denied my Writ of Certiorari, but I
13 am hopeful that this Petition for Rehearing will result in a better
14 outcome for me - as in my petition is granted.

15
16 In past years I fought against Hurtado and lost because I was
17 wrong (Example - see: Allred v. Washington, U.S. Supreme Court case # 21-5117).
18 I was wrong because I was fighting against a U.S. Supreme Court
19 case with over 130 years of history - of authority - that was well-
20 established, secure, good law, and the foundation for other laws or
21 rulings.

22
23 I agree with the 9th Circuit Court when they stated, "If any rule
24 can be regarded as settled, the Hurtado rule is... We think that the
25 Hurtado rule is right... to do so would throw into discard 85 years
26 of experience under what many competent authorities believe to be a
27 better procedure" (Morford). And still true after 139 years as a rule.

1 So, I started listening to the courts, the State, the A.G., and the
2 jurists of reason, and I took their arguments or reasons as my
3 own. I started to fight to uphold Hurtado, which is what I am
4 doing here.

5
6 How is it that when I fight "against" 139 years of precedent -
7 I lose, but when I fight "for" 139 years of precedent - I still
8 lose?

9
10 Of course my case is more than just Hurtado, but Hurtado is a
11 big part of my claims, and having the protections and requirements
12 provided by Hurtado would have kept charges from being filed against
13 me. I had the right to go through the preliminary hearing process
14 before an information could be filed or provided for by the U.S.
15 Supreme Court and the 14th Amendment.

16
17 "Commencement of a criminal action by filing an information instead
18 of by grand jury indictment is constitutional ([36] Hurtado v. California, ...
19 States are not required to indict felony defendants by use of grand
20 jury, the Fourteenth Amendment due process clause does not prevent the
21 use by a state of an information to charge a felony)" (Barner).

22
23 "The phrase 'due process of law' has and imports exactly the same meaning
24 as the words 'the law of the land'" (McCray). "Hurtado remains the
25 law of the land" (Martinez).

26
27 I was stigmatized, labeled, and hated by people I knew, not because of my
28

1 actions because I am innocent, but because of the state's use of
2 unethical means to win a case. I was embarrassed, scared, and emotionally
3 and financially hurt by the charges, even though I knew I did nothing
4 wrong. Since going through this, I have learned that the State
5 was going to prosecute me regardless of truth, my rights, reasonable
6 doubt, or even due process. The State stole my life because they could.
7 Because there is no buffer - no protection - between me and a malicious
8 prosecutor from a State that skirts the law.

9
10 But here's the kicker. There is a buffer - Hurtado v. California -
11 that the U.S. Supreme Court put in place for my protection. A buffer
12 that is protected by the 14th Amendment. The Hurtado rule is clear -
13 an information "after" a preliminary hearing is protected by the 14th
14 Amendment's Due Process Clause. There are 139 years of case law and rulings
15 to support this (SEE my Writ for a number of these rulings).

16
17 In my current Writ of Certiorari before this Court now, I have approx.
18 80 pages of case law supporting my argument, which I had to stop
19 looking up cases, because there is simply so much to support my Writ.
20 But I was still denied, even though every court in the Nation agrees
21 with me (legally they have to since Hurtado is a U.S. Supreme Court
22 ruling that has not been overturned and is still good law). How did I
23 lose when I have 139 years of authority and every court upholding
24 Hurtado on my side?

25
26 What about the interest of justice? The Hurtado Court stated that:
27 "Offenses heretofore required to be prosecuted by indictment shall be
28

1 prosecuted by information after examination and commitment by a
2 magistrate [also known as the preliminary hearing], or by indictment...
3 The information "after" the preliminary hearing is due process of law
4 and protected by the 14th Amendment. Which means, the State of
5 Washington violated or abridged my 14th Amendment right to due
6 process when they filed an information against me without a preliminary
7 hearing per the Hurtado rule.
8

9 In my case, the State filed an information against me. If they would
10 have followed Hurtado (as the Office of the Attorney General says
11 they do [SEE: Appendix R1, lines 11-12], and as the U.S. Supreme
12 Court mandates) and given me a preliminary hearing (examination and
13 commitment by a magistrate) prior to the filing of the information,
14 then no information would have been filed, because the judge during
15 the preliminary hearing would "not" have found probable cause to move
16 the case forward. No probable cause = no information = no conviction.
17

18 For example, where was the interest of justice for me personally, when
19 a video recorded forensic interview was used to help determine probable
20 cause (without a preliminary hearing) to file an information against
21 me (SEE: Appendix A4, lines 14-20), but where law enforcement
22 stated that the same (one and only) video failed to record (SEE: Appendix O)?
23 Please tell me, how was a blank screen, with no video or audio recorded,
24 used to establish probable cause? And how come Kim Christly, the forensic
25 interviewer, was never called to validate the video? That is easy to answer,
26 because it would be impossible for her to validate something that never
27 existed.
28

1 The State knew that the video failed to record prior to the information
2 being filed. So why didn't the State call the forensic interviewer to
3 have her validate or confirm what was said during the interview,
4 or what we would have seen if it did record? Why wasn't
5 Kim Christly a State's witness?
6

7 And after it was known that the interview failed to record, why
8 wasn't a follow up interview done? Seriously - if the interview was
9 so damning that a blank/non-recorded/failed recording of it
10 was enough to help establish probable cause to file an information,
11 why was it not used later? Why was Kim Christly not used later?
12

13 Could it be that the interview contained elements beneficial or
14 favorable to the defense? Unfortunately, we'll never know, but it
15 would have been something that would have been uncovered
16 during my preliminary hearing if I was given one. The truth
17 of the case is that "no" information would have been filed against
18 me.
19

20 And the failed recording is just one of the many examples I provide
21 in my Writ and other filings, in how the State prejudiced me, or
22 hurt me, or violated my rights under the U.S. Constitution and/or
23 the Hurtado rule. The failed recording is a telling example of what
24 happens when the State goes unchecked, and why we need the Hurtado
25 rule to be enforced in full in where an information comes after a
26 preliminary hearing in where the accused is present, her counsel, and
27 can cross-examine State witnesses - just as the Court mandated.
28

1 Clearly I am not timebarred, and for the exact same reason
2 that Clark County Superior Court never had jurisdiction over me -
3 Hurtado v. California. Per Hurtado, an information can "only" be filed
4 "after" a preliminary hearing finds probable cause. No preliminary
5 hearing means no valid or legal information was filed. So as long
6 as Hurtado is good law, which it is and was during my charging
7 and conviction, then Hurtado addresses timebar and jurisdiction
8 in my case.
9

10 According to Washington's own laws, as seen in CrRLJ 3.2.1(g)(1):
11 "Jurisdiction vests in the superior court at the time the information
12 is filed." Without the preliminary hearing, the information filed
13 against me is invalid or void, therefore, the superior court never
14 obtained jurisdiction. Jurisdiction gives the court the ability to hear
15 and decide a case. Meaning Clark County Superior Court never had
16 the legal authority to pass judgment and sentence in my case, thus
17 making the judgment and sentence void. Per RCW 10.73.090, timebar
18 only applies to cases that had a valid judgment and sentence, and where
19 the court had jurisdiction - through the Hurtado rule, the superior
20 court had neither, and thus I am not timebarred. Which also means,
21 that the State courts who said I was timebarred violated the Hurtado
22 rule because I used Hurtado to address timebar. In the very least,
23 the courts of Washington, in my case, attempted to overrule Hurtado
24 by timebaring me, or they never actually read my filings.
25

26 "Upon filing an information superior court will be presumed to have
27 jurisdiction" (Melvern). "Jurisdiction is the court's authority or
28

1 power. It must underlie every case that is brought before a judge...
2 In a criminal case, a trial court must have jurisdiction to determine
3 the guilt or innocence of the accused." (Karpov). In concern with
4 timebar and RCW 10.73.090, "a judgment and sentence is not valid
5 on its face if it demonstrates that the trial court did not have
6 the power or the statutory authority to impose the judgment and
7 sentence" (Tran).

8
9 And if I were to have gone the federal court route prior to going to
10 the U.S. Supreme Court, I would have filed a Rule 60(b)(4) motion
11 with the same Hurtado rule as above. "The mere passage of time cannot
12 convert an absolutely void judgment into a valid one. This is one reason
13 for our having held that there is no time limit on Rule 60(b)(4)
14 motions..." (Keating).

15
16 According to the Washington State Supreme Court, "Nevertheless, ever since
17 Martin v. Hunter's Lessee... it has been established that the United States
18 Supreme Court is the final arbiter of the Constitution... Accordingly, we
19 must respect and abide by the mandates of the Supreme Court"
20 (DeFunis).

21
22 Why "didn't" the U.S. Supreme Court, in Martin v. Hunter's Lessee,
23 allow Virginia to continue to violate a U.S. Supreme Court ruling, but
24 "does" allow Washington to continue to violate a U.S. Supreme
25 Court ruling of Hurtado v. California? Why the different
26 determinations when both states (Virginia and Washington) refused to
27 obey the U.S. Supreme Court? The U.S. Supreme Court is the
28

1 ultimate authority in interpreting the U.S. Constitution, and Martin
2 firmly established that. Hurtado is clear - an information can
3 only be filed "after" a preliminary hearing determines probable
4 cause to move the case forward.

5
6 This has been reconfirmed time and time again since 1884. Today's
7 Supreme Court agrees, as seen in Ramos: "In Hurtado v.
8 California... the Court held that the Grand Jury Clause does not
9 bind the States and they may substitute preliminary hearings
10 at which the decision to allow a prosecution to go forward is
11 made by a judge rather than a defendant's peers... Hurtado
12 remains good law."

13
14 The Attorney General (A.G.) for the State of Washington, who is currently
15 in office agrees with the Hurtado rule: "Hurtado has been the
16 law of the land for over a century" (Appendix R1, line 22). "...based
17 on Hurtado and its progeny" (Appendix R2, lines 14-16). "Hurtado
18 has been applied to the State of Washington's practice of prosecuting
19 by information" (Appendix R3, line 25).

20
21 I agree with the A.G. that prosecuting by information through
22 Hurtado is absolutely correct and legal. The U.S. Supreme Court
23 clearly stated four (4) different times in the Justice's
24 majority opinion/decision of Hurtado v. California that an
25 information cannot stand on its own and can only come after
26 a preliminary hearing (SEE: "Hurtado Quotes" on page viii of this
27 Petition for the four (4) quotes).

1 I really like how precise and crystal clear Hurtado is: "Offenses
2 heretofore required to be prosecuted by indictment "SHALL"
3 be prosecuted by information "AFTER" examination and commitment
4 by a magistrate, or by indictment..." (emphasis added). And it is
5 arguably the inspiration or foundation for Article I, Section 25
6 of the State's Constitution, which is important because the
7 Constitution of Washington is the highest law in the state.
8 And if the State Constitution is pointing to Hurtado as the
9 authority, then the State has absolutely no valid or legal reason
10 to violate the Hurtado ruling. Which also means that the State
11 has no valid or legal reason to deny me a preliminary hearing.
12

13 "Shall" is a mandatory duty, as in you "must" do something. In
14 Hurtado, the "shall" comes from the U.S. Supreme Court in where
15 no other court can question it - all courts must follow this
16 "shall." Here, the U.S. Supreme Court is commanding all courts
17 that going forward from 1884 until the end of time or until
18 the Court overturns Hurtado, all offenses listed in the Grand
19 Jury Clause of the 5th Amendment (which are capital or infamous
20 crimes) are to be prosecuted one of two ways - and there are
21 "only" two (2) ways:

- 22 1) by information after a preliminary hearing; or
23 2) by indictment after a grand jury.
24

25 "The term 'shall' means that the rule is mandatory" (Dewitt). "The
26 word 'shall' means the requirement is mandatory" (Parmelee). "the
27 term shall means something on the order of must or will, and it
28

1 has an ordinary meaning of imperative obligation, leaving no
2 discretion or choice for the actor" (Carmen Group). "Recent
3 Supreme Court precedent establishes 'shall' means 'must', ..."
4 (Texas).

5
6 "In Hurtado v. People of State of California, and again in
7 Garner v. Washington, the Supreme Court has held that the
8 indictment clause of the Fifth Amendment does not apply to the
9 states. In the absence of some clear indication that the Supreme
10 Court would no longer follow these precedents we are, of course,
11 bound to follow them" (Henderson).

12
13 "Arbitrary power in a single individual to bring a citizen into court,
14 and place him on trial for crime, may be so contrary to the spirit
15 of the fourteenth amendment as to be considered obnoxious to
16 to the provisions of that article ... there is in the judicial
17 system ... proceedings by information after a preliminary hearing
18 and the finding by a judicial officer of probable cause; just such
19 a proceeding as the supreme court in the case of Hurtado v.
20 People, has declared to be constitutional and valid" (In re Humason).

21
22 According to the U.S. Supreme Court, the preliminary hearing
23 serves the substantial interest of the accused, and protects the
24 principles of liberty and justice in a manner comparable to the
25 grand jury. Therefore, an information after a preliminary hearing
26 before a magistrate with rights for the accused to have counsel
27 and the right to cross-examine State witnesses, satisfies the
28