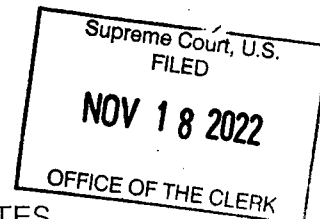


22-65350 ORIGINAL

No. _____



IN THE

SUPREME COURT OF THE UNITED STATES

MURPHY ALEX BEGAY — PETITIONER
(Your Name)

vs.

UNITED STATES — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

MURPHY ALEX BEGAY
(Your Name)

USP TUCSON, P.O. BOX 24550
(Address)

Tucson, Arizona 85734.
(City, State, Zip Code)

NONE
(Phone Number)

QUESTION(S) PRESENTED

Did the District court violate the Petitioners 14th Amendment right of the Due Process Clause, by denying the introduction of the complete audio recording of the Plaintiffs statement violating Rule 106 of the Federal Rules of Evidence 'Rule of Completeness'.

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:

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OTHER

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A 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☒ is unpublished.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 B 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☐ is unpublished.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 _____ 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☐ is unpublished.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 _____ 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☐ is unpublished.

JURISDICTION

☒ For cases from federal courts:

The date on which the United States Court of Appeals decided my case was June 22, 2022.

☒ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from state courts:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

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

STATEMENT OF THE CASE

April 10, 2018, Petitioner was charged with a single count indictment of sexual abuse of a child under the age of 12, in violation of 18 U.S.C. §§ 1153, 2241(c), and 2246.

August 17, 2018, Petitioner was appointed counsel and prepared for and assist with trial proceedings.

April 30, 2019, Jury trial began during which the government presented its evidence and witnesses in its case in chief. At one point during these proceeding the government introduced on the record partial excerpts of an audio recording of an interrogation of the Petitioner conducted by FBI agents on 2/27/18. Petitioner's counsel moved to have the court play the entire audio recording to help clarify the context of the Petitioner's statements. The court denied Petitioner's request on its basis that Petitioner's statements were indistinguishable mumblings. During closing arguments, the government summarized Petitioner's statements in the partial excerpts of the audio recording as a confession to the alleged charges.

May 3, 2019, Petitioner was found guilty by a jury at the conclusion of a four-day trial.

July 16, 2019, Petitioner was sentenced to life imprisonment to be followed by a life term of supervised release, which Petitioner timely appealed.

June 22, 2022, The Ninth Circuit Court of Appeals affirmed the conviction.

REASONS FOR GRANTING THE WRIT

Petitioners Certoran should be granted due to the conflict raised in the decent of two panel Judges (Friedland and Watford). Their decision concurs that the "trial courts failure to admit the Petitioners full interview was harmless," but the strength and sufficiency of the Governments case violated the Petitioners Constitutional rights.

It is without argument that the judges agreed that the Governments use of excerpts from the Petitioners interview by agents was an abuse of discretion and they were cautioned against using this tactic in the future cases. This is where this Court has the power to ensure that prosecuting parties such as the Government in this case is prevented from using these tactics in any future cases. Given the nature of the crime and the lack of physical evidence presented in this case, the trial courts failure to admit the entire interview recording, even at the jury's request, neglected them as the trier of fact; evidence that may have shown Petitioners statement in a different light. (see Appendix C)

This intentional neglect strikes the very core of the 'Rule of Completeness' and creates a clear violation of the Petitioners Fourteenth Amendment right of the Due Process Clause. The tactics and techniques used by the questioning agents were so coercive, give the Petitioners mental and intellectual disabilities the responses given yielded false information viewed by the Government as a confession. *Spencer v. Peters*, supra. (see Appendix D). *Devereaux v. Abby*, 263 F.3d 1070, 1076 (9th Cir. 2001), a claim of deliberate fabrication by circumstantial evidence require a showing that: "(1) [Agents] contrived their investigation of [Petitioners] despite the fact that they knew or should have known that he was innocent; or (2) [Agents] used investigative techniques that were so coercive and abusive that they knew or should have known that those techniques would yield false information. *Spencer v. Peters*, 857 F.3d 789, 799 (9th Cir. 2017) ("if an investigator knowingly uses coercive and abusive techniques that will likely generate false information, then that circumstantial evidence suggest that the investigator is deliberately fabricating evidence"); *Caldwell v. City & City of San Francisco*, 889 F.3d 1105, 1112 (9th Cir. 2018).

The Government uses the fruits gained from the agents interview with Petitioner to prosecute him before a jury violating his Fifth Amendment privilege against self-incrimination. "conduct demonstrating 'deliberate indifference or reckless disregard for an accused rights' not to be subjected to prosecution based upon false evidence". *Givatt v. City of Los Angeles*, 717 F.3d 702, 708 (9th Cir. 2013). The Government lacked the evidence needed to provide the jury the necessary information to make a sound and just verdict. The Petitioner has not had a fundamental and fair trial due to the limited evidence provided against him. A trial court should not reject a Defendants right to a fair trial by allowing the use of false evidence to secure a guilty verdict. It is clear as agreed upon by these decent judges and the Constitution that the Petitioner was a victim of abusive and coercive conduct subjecting him to be prosecuted by false evidence, and the jury was denied the right to fully examine and weigh the evidence against him.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,


MURPHY ALEX BEGAY/PETITIONER

Date: November 17