22-7548

SUPREME COURT OF THE UNITED STATES

ORIGINAL

Vickie Leavitt Duran

Petitioner,

vs.

Nevada, Division of Parole and Probation; Attorney General for the State of Nevada

Respondent.

On Petition for a Writ of Certiorari to
the United States Court of Appeals
for the Ninth Circuit

PETITION FOR A WRIT OF CERTIORARI

Vickie Leavitt Duran
Proceeding Pro Se
In Forma Pauperis
5997 Judson Avenue
Las Vegas, NV 89156
(323) 383-1772

I. QUESTIONS PRESENTED

1) Is Due Process under the Fourteenth Amendment to the United States Constitution, under Section 1.5.1 (Overview of Procedural Due Process) considered not denied where state actors are purposefully not providing procedural protections where the procedures are egregiously unfair by the omission and/or falsifying the existence of as well as NEVER addressing and/or properly adjudicating claims and overwhelming evidence of Actual Innocence and Conspiracy to Wrongfully Convict by the knowing, purposeful and malicious use of false evidence manufactured by LVMPD (Las Vegas Metropolitan Police Department) which was used knowingly by both defense attorneys at trial and the prosecutor with the specific intent to gain wrongful convictions on all felony charges?

2) Can ALL Courts blatantly ignore well established law and bedrock principles regarding the use of false evidence at trial to convict and that such conviction CANNOT BE TOLERATED BY THE FOURTEENTH AMENDMENT?

3) Can it be said Due Process was not violated where false evidence was PROVEN to be used to secure a conviction(s) at trial by the conspiracy amongst LVMPD, defense attorneys and prosecutor at trial by the knowing, purposeful and malicious use of falsified evidence while suppressing the exonerating and exculpatory evidence and bolstering credibility of lying witnesses and then this TRUTH AND FACT and evidence kept purposefully out of State Court record and then never properly addressed by Federal Judge or Ninth Circuit?

II. TABLE OF CONTENTS

All filings made by Petitioner since becoming aware of conspiracy to wrongfully convict by malicious use of false evidence by defense and d/a at trial will be outlined as well as the egregious impropriety effected by lower Courts when Petitioner presented each court with overwhelming & strong, irrefutable evidence of both the conspiracy to wrongfully convict and overwhelming & strong, irrefutable evidence of Petitioners Innocence by the lower courts purposeful omission of said evidence from every single proceeding listed in this section. Petitioner has attached hereto as the last document in her Appendix , the Motion to Vacate Conviction or in the Alternative, Grant New Trial Based on Newly Discovered Evidence of which is long, so only pages 1-24 in Appendix (See App.51-74). Due to petitioner's indigent status, she is unable to provide the exhibits 1-26, but also attached to Appendix, is Motion to Reconsider of the Denial of Issuance of COA which has essentially the same exhibits as Motion To Vacate (See App. 75-127).

Petitioner has repeatedly filed with the lower courts and does so again in this Petition, irrefutable, conclusive, uncontroverted, scientifically sound evidence which PROVES

purposeful and malicious use of evidence falsified by LVMPD of Petitioners guilt of which was used by both defense and d/a at trial with the specific intent to gain wrongful conviction of all three felony counts. The lower courts have departed GREATLY from normal, ethical and usual procedures as they purposefully omit and conceal the proof of the aforementioned PROVEN claims. As such, the lower courts respective decisions are clearly outlandish and erroneous in light of said evidence presented repeatedly by Petitioner. The two decisions by Ninth Circuit prove this fact themselves as they are completely devoid of any meaningful analyses or reason whatsoever and can be considered nothing short of absurd. The circumstances in this instant case have far reaching implications and EXTREME PRECEDENTIAL VALUE as this is likely the most MANIFESTLY EGREGIOUS MISCARRIAGE OF JUSTICE IN THE HISTORY OF AMERICA and there is absolutely NO OTHER CASE LIKE IT IN EXISTENCE, therefore, IT IS ABSOLUTELY INCUMBENT UPON THIS COURT TO EXERCISE ITS SUPERVISORY POWERS.

III. Table of Authorities

Cases

FEDERAL CASES

STATE LAW

FEDERAL STATUTES

IV. Petition for Writ of Certiorari

Petitioner, Vickie Duran, respectfully petitions this court for a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit denying her Motion For Reconsideration of the Denial of Issuance of COA.

V. Opinions Below

The United States Court of Appeals for the Ninth Circuit denied Petitioners request for COA on 12/16/2022 and a copy of the One (1) page Order is attached at Appendix (See App. 1). The United States Court of Appeals for the Ninth Circuit denied Petitioners Motion For Reconsideration of the Denial of Issuance of COA on 1/25/2023 and a copy of that One (1) page Order is attached at Appendix (See App. 2)

VI. Jurisdiction

Petitioners Motion for Reconsideration of the Denial of Issuance of COA was denied by the Ninth Circuit Court of Appeals on 1/25/2023. Petitioner invokes this Courts jurisdiction under 28 U.S.C. 1254(1), having timely filed this petition for a writ of certiorari within ninety days of the Ninth Circuit Court of Appeals judgment.

VII. Constitutional Provisions Involved

United States Constitution, Amendment V.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be put twice in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

United States Constitution, Amendment XIV.

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.

VIII. Statement of the Case

Petitioner was convicted by jury trial on May 27, 2010 of all three felony charges stemming from an auto accident involving her in a SUV and another driver in a Honda. The felony charges were 1) Driving under Influence causing death 2) Leaving the scene of accident 3) Child Endangerment. All three of these felony convictions were obtained by the knowing, intentional and malicious use of false evidence that was purposefully falsified by LVMPD (Las Vegas Metropolitan Police Department) and used by defense attorneys and d/a at trial all while suppressing the exonerating, truthful, and exculpatory evidence of Petitioners Innocence and bolstering the credibility of witnesses committing perjury and defense making inferences to guilt in closing arguments to advance the SPECIFIC INTENT THEY ALL HAD IN GAINING WRONGFUL CONVICTION ON ALL THREE FELONY COUNTS.

Petitioner has been repeatedly PROVING the claim of Actual Innocence and Conspiracy to wrongfully convict since she discovered it in 11/2013 and will be doing so again in this Petition for good measure and Gods help to get justice by incorporating Pages 1-24 of Motion to Vacate Conviction or in Alternative, Grant New Trial (minus its 26 Exhibits as too extensive)(See App. 51-74) along with Motion for Reconsideration of the Denial of Issuance of COA as it has essentially the same exhibits as in the previously mentioned Motion to Vacate, although not as extensive (See App. 75-127). Every single proceeding listed herein FAILS TO ADDRESS THE EVIDENCE OF THESE CLAIMS and FALSELY REPRESENTS THAT PETITIONERS CLAIMS

ARE BARE AND NAKED ALLEGATIONS but a reading of Petitioners Motion to Vacate as well as the Motion to Reconsider the Denial of Issuance of COA will CONCLUSIVELY PROVE THIS TO BE FALSE! The evidence submitted by Petitioner, which was newly discovered after the filing of her first habeas petition, is of the sufficiency to establish beyond a reasonable doubt that no reasonable factfinder would have found the movant guilty of the offense. 28 U.S.C. 2255(h)(1).

Petitioners first filed direct appeal was done by the scandalous defense attorneys who were still using the false evidence in that appeal, therefore, it is invalid and not being cited in this Petition.

The conspiracy to wrongfully convict was unknown to Petitioner at the first Habeas filing by her on 6/12/2012. The trial court appointed post-conviction counsel, Mary Brown, who suppressed all the exonerating and exculpatory evidence of Petitioners Actual Innocence that Ms. Brown had in her possession as well as evidence of the conspiracy to wrongfully convict, which was APPARENT alone BY THE CONCEALMENT of exonerating and exculpatory evidence by defense attorneys and d/a at trial in order to secure wrongful convictions. Ms. Brown knew all this in advance of her filing Supplemental Points and Authorities to Petitioners Habeas Petition but was silent on all of it, therefore, constituting Obstruction of Justice in violation of NRS 197.90.

Petitioner filed an appeal to Nevada Supreme Court on 6/10/13,after the denial of her first habeas petition, which shows on the appellate case management system for Case No. 63063, docket entry dated 6/10/13 "Brief" "Received Proper Person Fast Track Statement (See App.2). Petitioner subsequently began to scrutinize her discovery more thoroughly and discovered the scandal of conspiracy to wrongfully convict by the use of false evidence while suppressing the evidence of innocence and therefore, filed a Motion to Dismiss Charges Based on Newly Discovered Evidence of Governmental Criminal Misconduct with NV S.Ct. Case no. 63063, docket entry 11/26/13. (See App. 4) of which motion had the evidence that was falsely being

used at trial as well as the overwhelming evidence of Petitioners Innocence. No response to this motion made by State, therefore, Petitioner filed a subsequent "Emergency Motion Under NRAP 27(e)" Unopposed and Proven Actual Innocence/Unopposed Motion to Dismiss Charges/Confession of Error and SJ, Case no 63063, docket entry 2/20/14. (See App. 4).

NV S.Ct. affirmed Order of the District Court denying habeas petition and then simply wrote in a footnote "We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted" (See App.4). NV S.Ct. also stated they wouldn't hear new evidence in the first instance, which then led to Petitioners subsequent Motion to Vacate Judgment of Conviction or in the Alternative, Grant New Trial Based on Newly Discovered Evidence, filed 3/21/14. A hearing was held on the motion, of which Petitioner was not present but Mary Brown was present on behalf of Petitioner, which was grossly unfair as this counsel was previously removed from case on 5/06/13 by NV S. Ct, Case no. 63063, docket entry 5/06/13 (See App.3). The hearing held on 4/22/14 was A TOTAL COVER UP of the Petitioners claims and evidence of Innocence as well as claims and evidence of the conspiracy to wrongfully convict, by simply stating "that it appears from the record that all the photographs Deft. was referring to were given to Defense counsel prior to this matter being resolved. All other allegations are just bare allegations without the support of any evidence. An Evidentiary Hearing is not necessary for the Court to rule on this motion as Court heard no oral argument, it based its decision on the pleadings submitted by the parties. COURT ORDERED Motion DENIED." (See App.5-6). **This ruling by trial court is BLATANTLY FALSE** which can be deduced by a reading of the Motion to Vacate which has 26 attached exhibits PROVING Petitioners claims of The Conspiracy to wrongfully convict and the overwhelming evidence of innocence. The State lied in its response to Petitioners Motion to Vacate or in Alternative Grant New Trial... by stating "Defendant's alleged "newly discovered evidence" is not actually newly discovered evidence...." "Defendant argues that photos taken by police officers, some of which were used at trial to

secure Defendant's convictions, constitutes newly discovered evidence simply because she alleges she never personally saw the pictures until recently." (See App. 9) This is **BLATANTLY FALSE** as Petitioner NEVER CLAIMED the photos themselves were newly discovered but what was discovered by what the PHOTOS REVEALED along with tons of other documentary evidence found in Petitioners discovery proving the claims in her Motion to Vacate or in Alternative, Grant New Trial. The State also stated that the allegations of the conspiracy to wrongfully convict Petitioner were bare and naked allegations. This was blatantly false in light of the evidence submitted with Petitioners Motion to Vacate, being Exhibits 1-26, which was MUCH MUCH MORE than mere photos which PROVED the conspiracy to wrongfully convict. (Petitioner entitled to evidentiary hearing...if he has presented factual allegations, that, if true,and not belied by the record, would show that it is more likely than not that no reasonable juror would have convicted him beyond a reasonable doubt given the new evidence - citing Berry, 131 Nev. at 968, 363 P.3d at 1155)

Petitioner then filed a Writ of Mandamus with NV S.Ct. on 1/14/15, requesting the NV S.Ct. to intervene to get judge Villani to issue a ruling on Motion to Vacate or in Alternative, Grant New Trial as there was **NEVER A WRITTEN ORDER WITH THE REQUISITE FINDINGS OF FACT AND CONCLUSIONS OF LAW** as set forth in NRAP 5(B) Rule 4 (See App. 12-13). The NV S.Ct. denied request for Writ of Mandamus citing "We have reviewed the documents submitted in this matter, and without deciding upon the merits of any claims raised therein, we decline to exercise original jurisdiction in this matter." (See App. 14-15) .

It was subsequently learned by Petitioner that there was a docket entry on her 8th Jud. DC case No. C260587 showing "ORDER" dated 5/13/2014 but NO ORDER WAS EVER RECEIVED by Petitoner, therefore, she filed a Notice of Appeal on 6/02/2014 but then received "NOTICE OF DEFICIENCY" from Eighth Judicial District Court Clerk's Office stating there had not been transmitted a "Notice of Entry of Order" (See App. 16). Petitioner also requested a copy of said Order filed on 5/13/14, but received "Inmate Correspondence" from Clerk of the Eighth Judicial

Dist. Court stating that "Please be advised that you will need a court order for the request of the order filed on 5/13/14" (See App. 17). Also, the State of Nevada vs Vickie L. Duran case no. 09C260587, from the certification of record on appeal, the "Index of Pleadings" in the case show that the Order denying defendant's motion to vacate judgment of conviction or in the alternative grant new trial based on new evidence is only two pages being paged number 1518-1519 which supposed order is likely just a copy of the court minutes (See App. 18). Furthermore, the Appellate Case Management System print out for Case no. 65812 which was originated when Petitioner filed ONLY A NOTICE OF APPEAL and not an actual Appeal as there WAS NO ORDER TO APPEAL FROM as is attested to in the print outs "receipt of documents" in the case (See App. 19). All that was received by NV S.Ct. was the Notice of Appeal received on 6/05/14 without any actual Appeal filed by Petitioner as No Order in WRITING WITH NECESSARY FINDINGS OF FACT AND CONCLUSIONS OF LAW WAS EVER FILED AND NO NOTICE OF ENTRY OF AN ORDER. **NRAP Rule 4(b)(4) Entry Defined.** A judgment or order is entered for purposes of this Rule when it is signed by the judge and filed with the clerk (See App.12). Also per **NRAP Rule 4(b)(5)(B) Order Resolving Postconviction Matter.** The district court judge shall enter a written judgment or order finally resolving any postconviction matter within 20 days after the district court judge's oral pronouncement of a final decision in such a matter. The **judgment or order in any postconviction matter must contain specific findings of fact and conclusions of law supporting the district court's decision.**

NV S.Ct. submitted the above for decision and issued its Order of Affirmance on 9/18/14 (See App.20) stating that a motion to vacate conviction was not proper vehicle for appellant's challenges and that the motion was untimely in regards to seeking new trial based on newly discovered evidence. This decision by NV S.Ct. was made erroneously WITHOUT PETITIONER EVER BEING ABLE TO BE HEARD as well as the evidence NEVER BEING PUT IN RECORD FROM HER MOTION TO VACATE CONVICTION. **MILLER v. PATE** 87 SECT. 785. Held **deliberate misrepresentation invalidates conviction as the 14th Amendment**

cannot tolerate a state criminal conviction obtained by knowingly use of false evidence and premises. DECEIT UNACCEPTABLE

Petitioner went further to get a written Order for the Motion to Vacate or in the Alternative Grant New Trial Based on Newly Discovered Evidence by filing a Motion to Dismiss All Three Felony Charges on 5/21/2015. The State responded in Opposition to this Motion by lying and stating Petitioner appeared to be re-litigating the issues presented in her motion to vacate or asking Court to reconsider said motion. The State erroneously states that Petitioners motion was barred by principles of res judicata. (See App. 24). This is patently false and cannot be the proper decision where the Motion to Vacate was not properly adjudicated on the merits and WHERE NO WRITTEN ORDER EXISTS WITH THE REQUISITE FINDINGS OF FACT AND CONCLUSIONS OF LAW, nor is there AN ENTRY OF ORDER indicating that such an Order was ever received by court clerk as well as the aforementioned evidence of Notice of Deficiency from Court Clerk, PROVING THERE IS NO FINAL ORDER ON PETITIONERS MOTION TO VACATE OR IN ALTERNATIVE GRANT NEW TRIAL!

The Order denying Petitioners Motion to Dismiss All Three Felony Charges was later sent to Petitioner while she was incarcerated at FMWCC and the Order does not state the reasons for denial besides who was present at hearing, which Petitioner was not, and that "without argument, based on the pleadings, and good cause appearing therefor, ...Motion to Dismiss All Three Felony Charges shall be, and it is denied" of which Order also is neither dated nor signed by judge. (See App. 27-28).

Petitioner filed a Federal Rights Civil Suit in Federal District Court for the District of Nevada on 11/20/2017 (Case No. 2:17-cv-02903-APG-CWH) for Due Process violations in hopes to compel the Federal Court to intervene and help get her Motion to Vacate Conviction or in the Alternative, Grant New Trial, adjudicated properly. This civil suit was denied for Statute of Limitations for Personal Injury on 6/07/2018 even though Petitioner presented valid claim of

"Date of Discovery" rule. The Federal civil suit was denied by the VERY SAME JUDGE WHO DENIED Petitioners first Federal Habeas petition- Andrew P. Gordon.

Petitioner filed second Habeas Corpus in Eighth Judicial D.C. on 9/11/2018 in order to get her claims of Actual Innocence with the Newly Discovered evidence that she DID NOT HAVE at first Habeas of the conspiracy to convict by malicious use of false evidence manufactured by LVMPD and used by both defense attorneys and d/a at trial as well as the overwhelming evidence of Petitioners Actual Innocence. Judge Villani improperly denied that petition for being procedurally barred absent good cause stating "Petitioner offers as good cause an insufficient allegation that she has "ENDURED repeated **OBSTRUCTION OF JUSTICE**" by "each and every court appointed counsel." (See App. 33) but states NOTHING OF THE OVERWHELMING EVIDENCE PETITIONER ATTACHED TO THE 2ND HABEAS CORPUS BY WAY OF EXHIBITS 1-19 which CONCLUSIVELY AND IRREFUTABLY PROVED THAT A CONSPIRACY TO WRONGFULLY CONVICT DEFENDANT OCCURRED AT TRIAL BY THE MALICIOUS USE OF FALSIFIED EVIDENCE MANUFACTURED BY LVMPD AND USED BY DEFENSE ATTORNEYS AND D/A TOGETHER WITH THE SOLE INTENT TO GAIN WRONGFUL CONVICTION OF ALL THREE FELONY CHARGES! **(McQuiggin v. Perkins,** This Court held that a credible showing of actual innocence allows a petitioner to pursue habeas corpus relief on the merits of the case regardless of any procedural bar, such as a statute of limitations. In this instant case, Petitioner presented irrefutable, scientifically sound, incontrovertible evidence that was credible evidence not available at trial and **"No reasonable juror would have convicted in light of the new evidence..." Calderon v. Thompson, 523 U.S. 538 (1998), Pelligrini, 117 Nev. at 887, 34 P. 3d at 537; Mazzan, 112 Nev. at 842, 921 P. 2d at 922.** Furthermore, Postconviction counsel had all the exonerating evidence of Petitioners Innocence in her possession as well as all the falsified evidence of guilt but purposefully concealed it from the court in her Supplemental Points and Authorities in Support of Petitioner first habeas petition, therefore, constituting obstruction of justice. **NRS 197.190 Obstructing**

public officer reads in part, "Every person who, after due notice, shall refuse or neglect to make of furnish any statement, report or information lawfully required of the person...or who shall willfully hinder, delay or obstruct any public officer in the discharge of official powers or duties...be guilty of a misdemeanor. Also, judge Villani erroneously concludes that principles of res judicata apply, however, in the first habeas petition, the facts and circumstances ARE EXTREMELY DIFFERENT and should not preclude Petitioner to bring the evidence forth in subsequent petition, as the claim was not adjudicated on the same facts and evidence as was presented in second habeas petition. Citing "The law of a first appeal is law of the case on all subsequent appeals in which the facts are substantially the same." Hall v. State, 91 Nev. 314, 315, 535 P.2d 797, 798 (1975) (quoting Walker v. State, 85 Nev. 337, 343, 455 P.2d 34, 38 (1969)). Judge then **BLATANTLY LIES** when referencing Duran v. State, 2014 Nev. Unpub. LEXIS 345, *14, 2014 WL 819476 and stating "The court went on to note that Petitioner challenged the sufficiency of the evidence in that claim–as she does here as well. **THAT IS BLATANTLY AND PATENTLY FALSE** as Petitioner is PROVING FALSE EVIDENCE OF GUILT WAS USED TO CONVICT AT TRIAL! Not the sufficiency of evidence. (See App.37).

Petitioner then filed appeal to NV S.Ct. which affirmed the trials court denial of second habeas petition, HOWEVER, the NV. S. Ct. decision started to acknowledge a teeny tiny bit of the evidence submitted by Petitioner in her second habeas petition but it was not even close to being accurate reflection of what was submitted by Petitioner and can be proven by the simple fact where NV S.Ct. states "Duran's claim that the "arc of initial collision" as presented at trial was incorrect is based on speculation by Duran." (See App. 41) This is **BLATANTLY AND PATENTLY FALSE** as Petitioner CONCLUSIVELY PROVES "AIC" (acronym for Area of Initial Collision) was falsified by way of irrefutable evidence of the location of the skid marks left on road by other driver and their location to the "AIC" is IMPOSSIBLE as driver testified at trial she was stepping on gas and accelerating at impact, therefore, her tires were free and spinning at impact and tire marks that were left on road were from tires that were "locked and sliding"

therefore, brake was applied and tires locked, thus ensuing skid mark. The proof, however, that "AIC" false is that the said tire marks are only 20 feet from "AIC" and is IMPOSSIBLE given that the vehicle driven by other driver could not possibly apply the brakes and lock the tires within 20 feet of impact!! **CONCLUSIVELY PROVING LVMPD FALSIFIED LOCATION OF IMPACT "AIC".**

The Order by NV S.Ct. affirming the denial of Petitioners second habeas petition is chock full of these lies regarding what Petitioner actually submitted in her second Habeas petition which was most of the evidence used in Motion to Vacate Conviction that is attached hereto in Appendix.

Petitioner filed first Habeas petition in Federal Dist. Ct. on 4/08/21 (case no. 2:21-cv-00582-APG-BNW) and an Order Dismissing Grounds for relief and Directing Petitioner to Show Cause was filed 5/27/21. (See App. 45) The denial of this petition is also outlandish and absurd as he states Duran has not demonstrated actual innocence and recites evidence presented at trial, however, Petitoner has PROVED that the evidence of Petitioners guilt at trial was FALSE and therefore shouldn't be used in determining the claim of Actual Innocence. He goes on to recite some of, not all, of the evidence which was falsified at trial, being damage to vehicles indicating the other vehicle did not complete left turn, LVMPD falsified area of initial collision as shown by Honda's skid marks being only 20 feet from area of initial collision, two accident reconstructions with diagrams that couldn't comport with the damage to Honda, a photograph not shown to jury showing debris in true area of initial collision, crush calculations for a 1990 Honda show that the prosecution and the defense falsified the speed at which Petitioner was traveling, etc. However, judge only makes a conclusory statement that "Duran does not persuade me" with nothing else whatsoever. No explanation of why he is not persuaded or any type of analysis whatsoever regarding the list 1-9 of falsified evidence. What is most absurd about the decision is that he states the falsified evidence does not even undermine the sufficiency of the evidence that the jury used to support its verdicts, when It

MOST CERTAINLY DOES! Moreover, he states certain facts are indisputable which is Patently false in light of the submitted false evidence. (See App. 45-50).

IX. Reasons for Granting the Writ

It should be plainly clear at this point in petition as to why it is imperative for this Court to consider review of the denial of Petitioners Motion for Reconsideration of the Denial for Issuance of COA as the facts and undeniably strong evidence incorporated into this Petition, PROVES BEYOND A REASONABLE DOUBT that a conspiracy to wrongfully convict Petitioner occurred at trial by the knowing and malicious use of purposefully falsified evidence with the specific intent of gaining wrongful conviction of all three felony counts as well as the overwhelming evidence of Petitioners Innocence. The Petitioner has suffered a GRAVE MISCARRIAGE OF JUSTICE by the lower courts failure to properly address the proven claims the leaves Petitioner without any means of obtaining Justice if not for this Courts intervention.

More importantly, however, is the fact that without this Courts review of this instant matter, many more Americans that come in contact with the United States adversarial process could be in jeopardy of suffering the same horrific due process deprivations encountered by Petitioner as this case is UNPRECEDENTED.

The two decisions from the United States Court of Appeals for the Ninth Circuit alone should raise MAJOR RED FLAGS that a review by this Court is warranted. (See App. 1 & 2). It is beyond clear in light of evidence submitted by Petitioner in her Motion for Reconsideration that the Ninth Circuits decision regarding denial of a COA is clearly wrong as Petitioner undoubtedly made a "substantial showing of the denial of constitutional right." 28 U.S.C. 2253(c)(2). However, the petitioner need not show that he should prevail on the merits. **Lambright v. Stewart, 220 F.3d 1022, 1025 (9th Cir. 2000).** Rather, the petitioner is merely required to make the "modest" showing **(Lambright, supra, at 1025) that "reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." Slack v.**

McDaniel, 529 U.S. 473, 484 (2000). As explained by the Ninth Circuit in **Jennings v. Woodford, 290 F.3d 1006 (9th Cir. 2002),** the substantial showing standard required for a COA is "relatively low". Id., at 1011, citing Slack, supra. **Hence, a COA must issue if any of the following apply: (1) the issues are debatable among reasonable jurists; (2) another court could resolve the issues differently; or (3) the questions raised are adequate enough to encourage the petitioner to proceed further. Finally, "The court must resolve doubts about the propriety of a COA in the petitioner's favor." Jennings, supra, citing Lambright, supra, at 1025."**

Furthermore, it has been proven that all of the lower courts have egregiously departed from normal, ethical and usual procedures by omitting and concealing the proof of conspiracy to wrongfully convict by the use of false evidence at trial while suppressing exonerating evidence and bolstering false evidence at every turn. In light of the overwhelming evidence of this conspiracy to wrongfully convict and actual innocence, all lower court decisions are CLEARLY ERRONEOUS and OUTLANDISH further constituting a need of this Courts review.

X. Conclusion

Wherefore, Petitioner prays that this Court finds that there has been a specific denial of the petitioners constitutional rights with respect to the petitioners convictions . Also, that this Court finds that Petitioner has met the necessary requirements set forth in this Courts Rules under Rule 10. Considerations Governing Review on Certiorari and that she has made compelling arguments and facts to warrant this Courts review of Ninth Circuit Court of Appeals judgment denying Motion to Reconsider the Denial of Issuance of COA, reverse lower judgment and/or grant such other relief as the ends of justice so require.

Respectfully submitted,

5997 Judson Avenue
Las Vegas, NV 89156
(323) 383-1772

• Vickie Leavitt Duran, In proper person