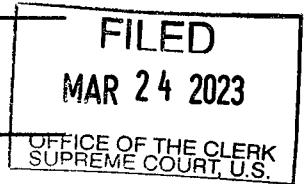


22-7686

ORIGINAL

No. _____

SUPREME COURT OF THE UNITED STATES



Daniel Dorado, CDCR#BN7728,

Petitioner,

vs.

The People,

Respondent.

On Petition for a Writ of Certiorari to
the United States Court of Appeals
Fourth Appellate District
Division One
State of California

PETITION FOR A WRIT OF CERTIORARI

Daniel Dorado, CDCR#BN7728
Petitioner In Forma Pauperis

Pleasant Valley State Prison
Daniel Dorado, BN7728
A-3 241
Post Office Box 8500
Coalinga, CA 93210

APPEAL from a judgment of the Superior Court in San Diego, CA,
Reversed in part and remanded for resentencing; Resentencing took place
on April 25, 2023 – reduction of two years from 40 for a sentence of 38
years.

II. QUESTIONS PRESENTED

For the Court's consideration and determination regarding issues involved in my criminal case, and consideration for adults in rape cases:

1. That the Court rule that the term "victim," when referring to those who have accused a defendant, not be used unless and until there has been a guilty verdict determined.
2. That the Court determine that in a rape case, the accuser is subjected to the same investigative tactics, practices, and uncovered personal information, including personal names of the accusers, background information, etc., as is applied to the one accused. Equal protection under the law – Fourteenth Amendment.
3. I was not submitted Miranda rights at the time of my arrest – Exhibits 5 and 6.
4. That pursuant to the Constitutional Right of the Sixth Amendment, the Court determine that in a rape case, the accuser must attend all hearings – that there cannot be a substitute, whether a detective or law enforcement officer or administrator attending a hearing and testifying on behalf of the accuser or instead of the accuser against the accused; that all hearings that the accused must attend the accuser must attend.
5. Would the Court find in cases of the accusation of rape, where both parties are adults and both parties are intoxicated, that the argument of responsibility be to both parties and not solely on the male, and the charge contain language of mitigating circumstances when both are intoxicated – the term mitigating start at a 50/50 equal responsibility. Fourteenth Amendment – equal protection under the law.
6. Would the Court decide on a limitation for a judge's "discretion" when sentencing – Eighth Amendment, Cruel and Unusual Punishment.
7. That immunity for judges, law enforcement, prosecutors, and those extended immunity when dealing with legal procedure, legal process, or criminal prosecution must be eliminated, severely curtailed, or a point for withdrawal, so that immunity is not a license to circumvent the

United States Constitution, or laws governing a person's rights, or legal avenues for justice, nor an excuse for perjury at trial, and denial of Due Process.

8. That the Court determine a national count for a laboratory result when the question is intoxication or drugs involved, where the person relying on the lab result could be incarcerated because one laboratory result is different than the result from another laboratory – Exhibit 8.

9. That the Court determine that the religion of an accused and whether the accused lived by the tenets of his religion not be used against the accused at any time, nor at any hearing – First Amendment.

10. If an accused person, during interrogation or initial interview, requests a polygraph, is he/she entitled to have a polygraph?

11. That the Court determine that monies submitted on behalf of an incarcerated person not be used to pay a restitution amount owed by the incarcerated person because the monies are out-of-pocket money from family to help the incarcerated person, and not to pay a bill to the accusers, the state, city, or county.

12. Would the court clearly direct to what entity a citizen can go in order to report the corrupt activities within the legal system of a city and/or county – I refer specifically to San Diego, California, and the courts, law enforcement, and legal system I experienced there.

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IV. TABLE OF AUTHORITIES - CASES

Miranda v Arizona – Copies of my interview with detective Crumb, Exhibit 5

attached indicating that I state that Miranda had not been submitted to me.

Copies of Crumb testimony at trial, Exhibit 6 attached indicating perjury by Crumb by stating she had submitted Miranda, though she had not.

California Prop 57

Penal Code 654

V. PETITION FOR WRIT OF CERTIORARI

Daniel Dorado, an inmate currently incarcerated at Pleasant Valley State Prison, Coalinga, California, In Forma Pauperis, respectfully petitions this Court for a Writ of Certiorari to review the questions presented within this Writ, and consider the issues submitted in my Statement of the Case, herein.

VI. OPINIONS BELOW

The California Court of Appeal, Fourth Appellate District Order Modifying Opinion and Denying Rehearing; No Change in Judgment dated 10/31/22, as Exhibit 1. The APPEAL by the California Court of Appeal, Fourth Appellate District - Reversed in part and remanded for resentencing as The People v. Daniel Dorado, D078342, dated October 11, 2022, as Exhibit 2. The California Supreme Court denial of my petition for review dated December 28, 2022, as Exhibit 3. The Remittitur in the case filed 1/3/23, as Exhibit 4.

VII. JURISDICTION

Mr. Dorado's petition for review to the California Supreme Court was denied on

December 28, 2022 – Exhibit 3. Mr. Dorado invokes this Court's jurisdiction, having timely filed this Petition for a Writ of Certiorari within ninety (90) days of the California Supreme Court's judgment for the date of March 28, 2023, and within sixty (60) days of the date when the clerk of the U.S. Supreme Court returned documents for correction of March 28, 2023.

VIII. CONSTITUTIONAL PROVISIONS INVOLVED

A. First Amendment - Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

B. The Sixth Amendment guarantees that an individual accused of a crime has the right "to be confronted with the witnesses against him."

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

C. Eighth Amendment - Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

D. Fourteenth Amendment - 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.

IX. STATEMENT OF THE CASE

In March 2018, in San Diego, California, I was arrested for the charge of rape. In December 2019, I was convicted on charges of rape pertaining to four women. Years before, two of the four women, (numbers 1 and 2, as referred) had been thoroughly investigated and, at the time, no charges were brought against me. One of the four women, number 3 as referred, is my friend and testified

on my behalf at trial, stating that I never raped her, and that she had never stated I raped her, nor had she filed any documents or complaints against me – the prosecution was allowed to bring number 3 into the trial under a Domestic Violence accusation, but number 3 does not/did not meet the criteria for victim of Domestic Violence.

The fourth woman filed a complaint against me three (3) weeks after we met and the complained incident occurred – I did not call number 4, Nancy K, for a second date after we met, and number 4 did not have a medical examination done. Number 4 created “evidence” by using her own phone camera to take pictures of her body – a phone camera with enhancement ability for pictures, she kept personal items she stated she used when she met with me and submitted them as her own evidence at trial. Additionally, the items Number 4 submitted as evidence were accepted by the court, though law enforcement and medical staff never handled any of these items and did not take their own pictures of number 4; there was no chain-of-custody of the items or pictures by law enforcement – the court accepted the items as “evidence” at trial and should not have done so when a man’s life and liberty are at stake. Number 4 destroyed her profile information, she erased and destroyed the emails and text messages between her and me, and communications between Nancy K and detectives and prosecution and law enforcement were not submitted at trial. Number 4 continued to claim she had been drugged, though no drugs were involved in this case. I contend that Nancy K destroyed items and did not appear at the Preliminary Hearing in this case because exculpatory evidence and exculpatory testimony would have been discovered. The issues applicable in the case of number 4, Nancy K, are destruction of evidence, manufactured evidence, obstruction of justice, and perjury.

I have maintained that I am innocent of the charges that have been brought against me. I have stated that the encounters with the women were consensual. I maintain that I have never used drugs, except for medical conditions, and I did not use any drugs, date rape drugs or otherwise, to drug women, though the prosecution kept stating that I had used drugs to incapacitate women – no drugs were ever found, and there had been a thorough and extensive investigation of me, my businesses, my cars, and my properties.

At the time of the arrest in March 2018, I had two businesses, I had homes and property, and I was remodeling my restaurant. Since the arrest, I have lost everything, including my relationships with my family, friends, business associates, my homes and properties, my businesses, my income, and all financial assets.

Several factors impacted this case: I am a minority and prejudice against minorities has been an ongoing issue in San Diego, California, where this case was tried. At the time of the arrest, the #MeToo movement had just begun – Weinstein and Cosby had been indicted for rape. There was an election for District Attorney underway in San Diego, and an arrest for rape would be good publicity for the candidate in the election.

Additionally, the trial occurred at the time of year for the holidays of Thanksgiving and Christmas in 2019. Several jurors were excused because of work schedule and illness, the jury had two different jury foremen, verdicts were inconsistent, causing there to be a question of whether the jurors were confused, and whether the jury was in a hurry to finish and wanted to leave because of the holidays. Because there were pending charges for deliberation by the jury, and the judge had allowed a break, the judge had requested that the jury return by December 30, 2019, for decisions on the remaining charges – the jury returned, the jury was deadlocked and did not rule on the remaining charges.

During the trial, the prosecution continually kept referring to the accusers as victims thereby, creating prejudice against me with the jury before guilt had been determined.

Concerning Miranda rights, the detective, Crumb, stated at trial that she had submitted Miranda rights to me, however, it is clearly stated in my interrogation with the detective that I was not submitted my Miranda rights upon arrest, and though detectives had handcuffed me, and I was questioned, it was long after, during the interrogation with the detective, and after I informed the detective that I had not had Miranda rights submitted to me, that the detective submitted Miranda rights to me. The detective, Crumb, then perjured herself at trial by stating she had submitted Miranda to me at the time of arrest, but this was not true. This is an example of the cover of immunity that is relied upon by the detectives and prosecution, and where the lead detective and

law officers violated Miranda by not submitting Miranda protocol to Petitioner upon arrest - Miranda v. Arizona (1966): Police [law enforcement] must inform suspects of their rights before questioning – Exhibits 5 and 6.

During the trial, the prosecution violated my Sixth Amendment right by referring to a black woman and her appearing to be drugged, but the black woman was never presented, nor called to testify. The accuser, number 4 – Nancy K, was not at the Preliminary Hearing and the detective Crumb testified against me at the Preliminary Hearing on behalf of Nancy K. In both cases, I was not allowed to face my accuser – Sixth Amendment violation.

My friend, Number 3 – Andrea, was called to testify against me, though she never filed a complaint against me, and she never accused me of rape – Exhibit 10. The prosecution and judge allowed a tape recording of my friend, who had made the recording under duress, to be played at trial as testimony against me, yet my friend never accuses me of rape in the recording – it is the interviewer who mentions rape, but Andrea never states that I raped her. Again, Sixth Amendment violation because I cannot question a tape recording.

In closing argument, the prosecutor, Coto, denigrated me before the jury as not being a good Christian because of my sexual encounters with the women – violation of my First Amendment right.

The District Attorney's office used their authority to intimidate bail bondsmen and their surety companies, as well as my colleagues and friends, in order that I not be able to obtain bail. Law enforcement used wiretapping to find out who the bail bondsmen were and proceeded to contact them and their surety companies in order to have them not submit bail to me – this is violation of Due Process, as well as using immunity to excuse their violations – Exhibit 7.

The prosecution tried to use an incorrect intoxication reading from their own lab against me. My expert, Gregory Zavatsky, presented a more precise reading, and the jury was convinced that the reading by the prosecution's lab was incorrect, and I was not found guilty on this charge. I submit a portion of Zavatsky's trial testimony with this Writ in order to prompt an investigation into the San Diego lab and its erroneous calculations for lab results- results that have affected other

criminal cases. A lab result count determination is needed, so that others that are accused in similar circumstances may rely on a correct and definite lab report reading- Exhibit 8.

An example of the serious nature of the harm I experienced in San Diego, allowed because of a corrupt legal system that has developed involving law enforcement of San Diego County, the San Diego District Attorney's office, the San Diego Sheriff's department, the San Diego Superior Court, the George Bailey Detention Facility, and supporting facilities, such as the test lab, is the fact that the charge of lewd acts with a minor was placed as a charge against me, though I was not accused of this heinous crime. The false charge was placed on the San Diego Sheriff's public information listing against me for six (6) months- this was a deliberate act to place me in danger. Someone in authority in the San Diego legal system, law enforcement, and District Attorney's Office had deliberately placed the false charge on the charge list, then someone had to sign off on it, and someone with authority allowed the false charge to remain in the public information. Several people who tried to help me, called the Sheriff's office and spoke with deputies in order to have the false information removed, but the false charge remained - this false charge was a deliberate act to place my life in danger because those in the legal system in San Diego are well-aware of the danger this false charge creates for an inmate - this goes to the Eighth Amendment, Cruel and Unusual Punishment.

I maintain that I did not rape these women, I did not drug them, I did not threaten them, that the sex was consensual. These women were influenced and coerced by the interviewers and investigators in the case, who were adhering to a script, scenario, and an agenda by the District Attorney's office and law enforcement, and legal administrators. There were several rape cases being heard at the same time as the case against me was heard, with very similar accusations in all of the cases; the same interviewers and investigators worked on these similar cases and relied on the same questions, the same scenarios, the same goal for convictions, utilizing threats and coercion in order that the accusers, including the accusers in my case, be in a convinced state-of-mind, so as to agree to the accusations of rape.

The judge gave a sentence of forty (40) years, using the higher sentence calculation, and at resentencing held April 25, 2023, the judge subtracted two years for a total of 38 years. This sentence is cruel and unusual punishment – Eighth Amendment. I maintain that I did not rape these women. In sentencing, the judge should have incorporated Penal Code 654 in the calculations, and California Prop 57 should have been considered when calculating the sentence. Penal Code 654 bars consecutive terms for the same set of circumstances, as asserted in the accusations against me. California Prop 57 impacted charges of rape, indicating that rape of an unconscious person, the rape of an intoxicated person are not violent felonies, and therefore, the calculation for the 40 yr. sentence should have incorporated California Prop 57.

To highlight the fact that the 40 yr. sentence is cruel and unusual punishment, compare the sentence with the defendant, William (Bill) Cosby, who was charged with rape of many women and he had confessed to using drugs to incapacitate the women - Cosby received a sentence of 3 to 10 years. The San Diego Sheriff's deputy, Fisher, who pled guilty to rape of several women while on duty, received 5 years, with 22 months served before release consideration; Fisher was offered probation, and he did not have to register as a sex offender – Fisher is white and once a part of law enforcement in San Diego.

I continue to maintain my innocence. I did not rape these women. I did not drug these women. There was no evidence indicating that drugs were involved - Exhibit 9. In Prosecutor Coto's closing statement, she states to the jury that the prosecution did not have to prove drugs were used - the prosecution never had evidence that there were drugs. I did not use force or threats against these women, the women continued to call and contact me, and even worked with me after the complained incidents, the women were free to leave whenever they wanted, they drove themselves to the locations, and drove themselves away when they left.

X. REASONS FOR GRANTING THE WRIT

I do not believe that the appellate court reviewed all of the documents in my case in

order to arrive at a just conclusion, i.e., the Preliminary Hearing transcripts, my taped interrogation with detectives, and the complete trial transcript were not considered. I believe that the appellate court relied on the information submitted by the prosecution and attorney general's office, instead of independently reading the documents and considering the issues in this case, such as the fact that there were no drugs, yet the prosecution kept referring to drugs during trial, that the detective at trial committed perjury regarding my Miranda rights, the allowance by the judge of hearsay testimony throughout the trial, the allowance of audio/video as testimony against me when the witness, Number 3, in the audio/video testified under oath on the witness stand on my behalf that I had not raped her, the allowance of pictures, items, and materials created and submitted by accuser Number 4- Nancy K, as evidence against me and used at trial, but said materials were not handled by law enforcement, nor controlled by chain-of-custody in law enforcement, and so much more.

I believe that the issues involved in my case are issues others have experienced in their own legal procedures and trial, and particularly when conducted in the San Diego trial courts, and more directly, when a person has been charged with the accusation of rape.

The Court's determination on the issues involved within this Writ would help others.

XI. DIRECT APPEAL

I request that the Court would review my case and make determinations that would help clarify the issues in this case and impact other cases with similar issues, particularly in cases

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concerning rape.

The decision by the Court of Appeals did not take into account the issues presented in this Writ.

I request that the Court grant a Writ of Certiorari in my case, with an ultimate decision for a new trial.

XII. CONCLUSION

For the foregoing reasons, I respectfully request that this Court issue a Writ of Certiorari to review the issues presented in this document, and render its findings and determination.

I thank Your Honors and the Court for its time and consideration.

DATED this 25th day of May, 2023.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'DD' with a stylized flourish extending to the right.

Daniel Dorado, CDCR#BN7728
In Forma Pauperis

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