

22-7812

No. _____

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

WASHINGTON DC.

FILED

MAY 28 2023

OFFICE OF THE CLERK
SUPREME COURT, U.S.

MIGUEL ANGEL CISNEROS. — PETITIONER
(Your Name)

vs.

TRENT ALLEN. — RESPONDENT(S)
WARTEN OF (SVSP) =

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

MIGUEL ANGEL CISNEROS.
(Your Name)

Salinas Valley State Prison.
(Address) P.O. BOX #1050.

Soledad. CA. 93960.
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

QUESTION FOR REVIEW:

1.) THE STATES TRIAL COURT DECISION ON ADMISSION OF ERRONEOUS PRIOR UNCHARGED ACT AND ITS EVIDENCE OF ROBBERY. ITS INCLUDED DECISION VIOLATED PETITIONER'S 14. AMENDMENT DUE PROCESS ALONG WITH ITS WEIGHED PREJUDICE ABUSE OF DISCRETION.

2.) THE STATES TRIAL COURT DECISION TO THE ERRONEOUS ADMITTED CONVICTION AND SENTENCE OF PENAL CODE § 209.5. 9.) KIDNAPPING IN A COMMISSION OF CARJACKING. ITS DECISION WAS INSUFFICIENT TO CONVICT PETITIONER, VIOLATING HIS 14. AMENDMENT DUE PROCESS FOLLOWING 5TH AND 6TH AMENDMENT'S. THE DECISION INCLUDES THE CONSTITUTIONAL RIGHT THAT SECURES THE FULL PROTECTION OF THE REASONABLE DOUBT STANDARDS. FOLLOWING THE PROSECUTOR'S MISCONDUCT OF KNOWINGLY KNOWING TO USE FALSE WITNESS AND TESTIMONY AND EVIDENCE TO SEEK A CONVICTION, AND NEVER PRESENTING OR ARGUING THE CRITICAL ELEMENTS ("ACTUAL INNOCENCE") FALSE EVIDENCE AND PLEA.

3.) THE STATES TRIAL COURT DECISION OF THE ERRONEOUS ADMITTED JURY INSTRUCTION. JURY INSTRUCTION CALCRIM 376.)... ITS DECISION INCLUDES THE VIOLATION OF 14. AMENDMENT DUE PROCESS FOLLOWING THE 5TH AND 6TH AMENDMENTS THE RIGHT TO A JURY VERDICT AND THE RIGHT TO A JURY INSTRUCTION WITH THE MEANINGS OF THE FULL PROTECTION OF THE REASONABLE DOUBT STANDARD - "STRUCTURAL ERROR" - CAUSING'S.

4.) THE NINTH CIRCUIT COURT'S DECISION STATING THAT PETITIONER, APPELLANT, HAD NOT SHOWN SUBSTANTIAL VIOLATION OF CONSTITUTIONAL RIGHT VIOLATIONS AND THAT SUBSTANTIAL REASONABLE DEBATE WHETHER THE COURT WAS ERRONEOUS.

5.) THE FEDERAL DISTRICT COURT'S DECISIONS ON PETITIONER GROUND CLAIMS AND THE CONSTITUTIONAL RIGHT VIOLATIONS WHICH HAD OCCURED, BUT ALSO THE FIRST APPEALS ERROR RULING OF THE CLAIMS AND THE CLAIM OF WHICH IT MADE A OPINION ON THE ADMISSION OF THE UNCHARGED PRIOR ACT AND ITS EVIDENCE OF ROBBERY. WHICH IT AFFIRMED.

1 ALTHOUGH IT AGREED STATING THAT BOTH INCIDENTS WERE SUFFICIENTLY
2 DIFFERENT BETWEEN EACH OTHER "TO MEET THE STANDARD".

3
4 6.) THE FIRST APPEAL DECISION ON ITS RULING WHICH WAS "ERRONEOUS
5 ALTHOUGH AFFIRMING THE CONVICTION AND THE STATE TRIAL COURT DECISION
6 IT ACKNOWLEDGED... THAT AS FOR INCIDENTS THEY WERE
7 SUFFICIENTLY MUCH DIFFERENT BETWEEN ONE AN ANOTHER AND
8 BECAUSE UNDER THE PURSUANT EVID. CODE § 1101. 6)... AND EVID CODE
9 § 352. 6.)... IT MUST REVERSE ITS JUDGMENT AND CONVICTION
10 AS IT WAS AND COMMITTED A REVERSAL ERROR.....
11 VIOLATING DEFENDANT PETITIONER DUE PROCESS.

12
13 7.) THE STATES TRIAL REVERSAL ERROR... AND STRUCTURAL ERROR...
14

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:

- 1 PARTIES TO THE PROCEEDING WHOSE JUDGMENT IS SUBJECT OF
- 2 THIS PETITION: ALL PARTIES ARE TO THE STATES TRIAL COURT...
- 3 DECISIONS AND RULINGS... THE NINTH CIRCUIT COURT OF APPEALS
- 4 AN IT'S REQUEST FOR "RECONSIDERATION" ARE FOLLOWED TO THE
- 5 FEDERAL DISTRICT COURT'S DISMISSING OF PETITION AND THAT IS
- 6 FOLLOWED TO THE CSC. CALIFORNIA SUPREME COURT'S DECISIONS.
- 7 AS TO THE FIRST STATE COURT OF APPEALS AND IT'S REVIEW...
- 8 FOLLOWING THE STATES TRIAL COURT ERROR'S AND VIOLATION'S.

INDEX TO APPENDICES.

APPENDIX. A.) THE NINTH CIRCUIT COURT OF APPEALS 'DISPOSITIONS' OF DENIAL OF APPEAL AND THE RECONSIDERATION OF IT FOLLOWING THE GROUNDS OF APPEAL. - THIS APPENDIX (A.) HAS 15. PAGES.) BUT TWO 2.) NINTH CIR COURT OF APPEALS DISPOSITIONS AND DECISIONS DENIALS. (AN 1.) PACKAGE OF 28. PAGES. APPEALS GROUNDS.

APPENDIX. B.) THE FEDERAL DISTRICT COURT 'DISPOSITIONS' OF DENIAL OF PETITION AND ITS RECONSIDERATION OF IT FOLLOWING THE DENIAL OF THE (COA) CERTIFICAT OF APPEALABILITY AND IT INCLUDES THE POST JUDGMENTS BY PETITIONER AND THE COURT DECISIONS. THIS APPENDIX B HAS 3 PACKAGE 1.) OF 16 PAGES AND ANOTHER 2.) OF 2 PAGE (AN 3.) OF 11. PAGES OF THE FEDERAL DISTRICT'S DECISIONS (AN RULING'S

APPENDIX. C.) THE SUPREME COURT OF (STATE) 'DISPOSITIONS' OF DENIAL AND DISMISSING DECISIONS FOLLOWING THE STATE COURT OF APPEALS DECISIONS OF DENIAL AND DISMISSING FOLLOWING PETITIONERS APPELLANTS CISNEROS. BRIEF 'PETITION REVIEW'. THIS APPENDIX (C.) HAS TWO PAGES OF SUPREME STATE COURTS DENIALS. AND THE COURT OF APPEALS DECISIONS OF APPEAL WITH ITS PETITIONS WHICH HAVE 1.) OF 17 PAGES AND 2.) OF 18. PAGES. WITH 3. MORE ADDED PAGES.

APPENDIX. D.) THE PETITIONER DECLARATIONS IN SUPPORT TO HIS AND THE FOLLOWING GROUND CLAIMS OF FALSE EVIDENCE HIS CLAIM AND HIS ACTUAL INNOCENCE. FOLLOWING EXHIBITS TO HIS. ERRONEOUS ADMISSIONS OF UNCHARGED PRIOR ACT AND ITS EVIDENCE.

DECLARATIONS IN SUPPORT EXHIBIT ARE COPIES OF ON RECORD AND COURT DOCUMENT. (SEE) COPY OF LIMINE MOTION NO 4.) OF TRIAL COUNSEL ATTORNEY. S OF PROSECUTOR MISCONDUCT (AN FALS EVID. WITNESS AND ACTUAL INNOCENCE

THE COPY PAGE OF POINTS AND AUTHORITIES IN SUPPORT OF NEW TRIAL CONTENTMENTS DISPOSITION POINTS OF ARGUMENTS IT SHOWS EVIDENCE OF PETITIONERS GROUND CLAIMS OF FALSE EVIDENCE AND FALSE TESTIMONY AND FALSE WITNESS. AND WITNESS CREDIBILITY

A COPY OF A NEW TRIAL MOTION PAGE 6 - 7 OF THE MOTION SHOWING EVIDENCE OF PETITIONERS GROUND CLAIM OF 'ACTUAL INNOCENCE' STATING AND EVIDENCE OF THAT THERE'S 'NO ACTUAL PHYSICAL EVIDENCE WHICH IT INCLUDES THE ABSENCE OF EVIDENCE AND THE EVIDENCE OF PETITIONERS ACTUAL INNOCENCE.

SEE UNDER DECLARATION IN SUPPORT EXHIBITS TO SEE MORE SUCH POINTS OF THE UNCHARGED PRIOR ACT AND ITS EVIDENCE.

TABLE OF CONTENTS

OPINIONS BELOW.....	1.-6.)
JURISDICTION.....	7
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	8 - 10 .
STATEMENT OF THE CASE	11.-12
REASONS FOR GRANTING THE WRIT	13 - 28.
CONCLUSION.....	30 .

INDEX TO APPENDICES

- APPENDIX A THE NINTH CIRCUIT COURT OF APPEALS' DISPOSITIONS AND GROUND OF APPEAL AND DECISIONS OF DENIAL.
- APPENDIX B THE FEDERAL DISTRICT COURT DISPOSITIONS AND DENIAL OF RECONSIDERATION AND (COA). CERTIFICATE WITH OTHER POST JUDGMENTS DECISIONS OF DENIAL.
- APPENDIX C THE STATES SUPREME COURT AND THE STATE APPEALS DISPOSITIONS AND DECISIONS TO DISMISS AND DENIED/DENIAL., FOLLOWING APPELLANTS PETITION FOR REVIEW BRIEFINGS.
- APPENDIX D THE PETITIONER'S DECLARATIONS IN SUPPORT TO FAISE EVIDENCE AND HIS. ACTUAL INNOCENCE ERRONEOUS ADMIT EVIDENCE AND ERRONEOUS ADMITED PRIOR
- APPENDIX E UNCHARGED ACT AND ITS EVIDENCE. EXHIBIT,

APPENDIX F

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 THE NINTH CIRCUIT COURT OF Appeals; 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 U.S DISTRICT COURT OF San Francisco; 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 C to the petition and is

☒ reported at THE STATE SUPREME COURT OF OHIO; or,
☒ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the THE STATE SUPERIOR COURT OF San Mateo Co court appears at Appendix D to the petition and is

☒ reported at THE SAN MATEO COUNTY COURT; 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 _____.

☐ 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: Dec. 24, 2023, and a copy of the order denying rehearing appears at Appendix A.

☐ 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 Jul 27, 20.
A copy of that decision appears at Appendix _____.

☒ A timely petition for rehearing was thereafter denied on the following date: Jul 27, 20, 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).

TABLE OF AUTHORITIES CITED

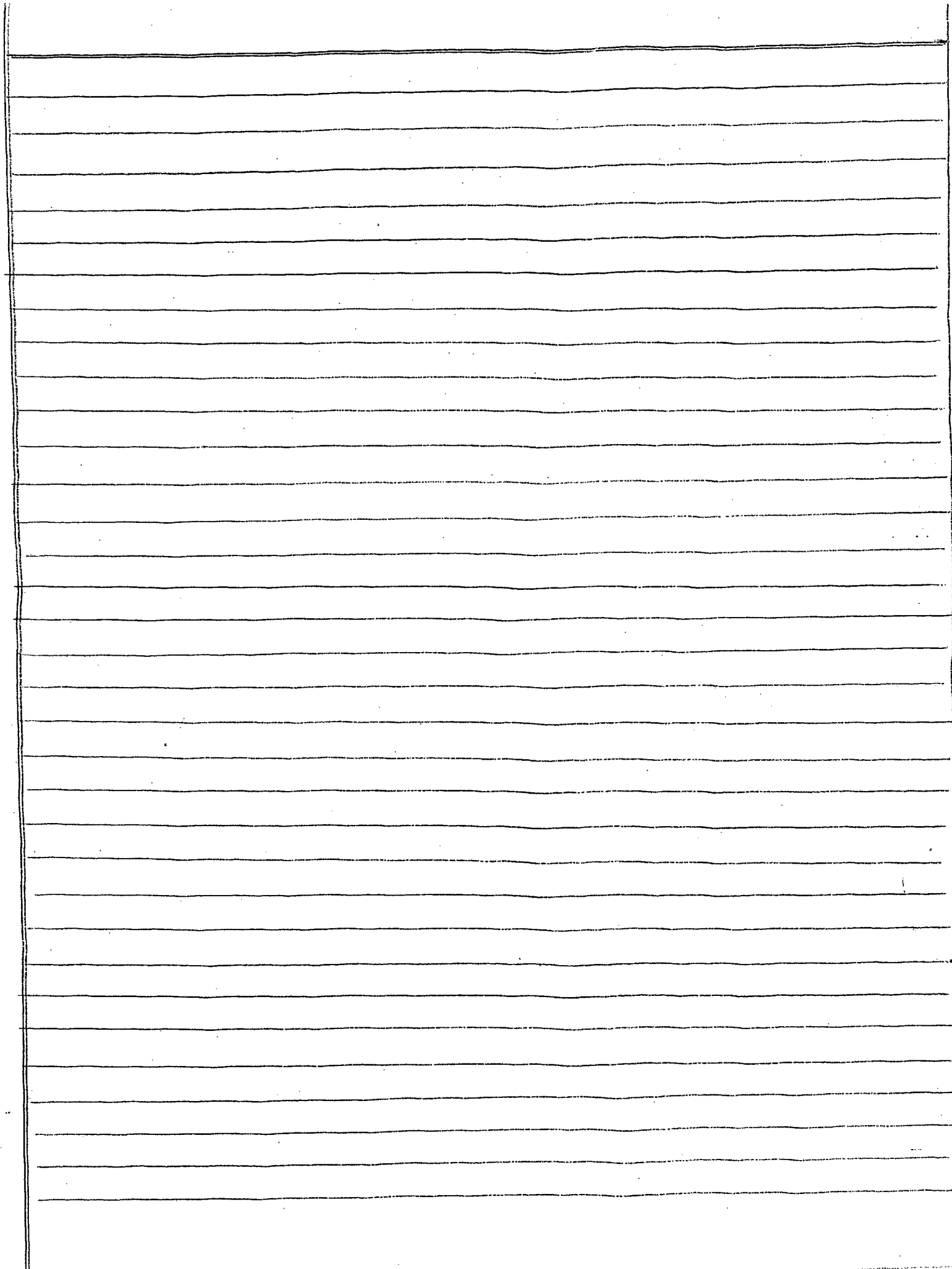
CASES	PAGE NUMBER
EVID. CODE § 1101. b.) UNCHARGED ACT'S	PAGE 15.) line 20-26
AMMAL V. VAN DE KAMP. 926. F.2d.	PAGE 15.) lines 14.-25.
McKINNEY V. REES 9TH. CIR 1993.)	PAGE 15.) lines 18-.
EVID. CODE § 352. b.)	PAGE 15.) line 19.
NEDER. V UNITED STATES Supra. 527.	PAGE 17.) line 22-
VICTOR V. NEBRASKA. 511. U.S. 1.6. 1994.)	PAGE 18.) line 13.
ESTELLE V. McGUIRE. 1990.)	PAGE 18.) line 20.
IN re WINSHIP. 397. U.S. 1970.)	PAGE 18.) line 3.
ROUSLEY V. UNITED STATES 523. 1998.)	PAGE 20.) line 6.
PYLE V. KANSAS. 1942. 317. U.S.	PAGE 20.) line 17.
IN re WRIGHT. 78. Cal App.	PAGE 20.) line ..
PENAL CODE § 1473. c.)	PAGE 20.) line 28.
STATUTES AND RULES	
EVID. CODE § 1101. b.) UNCHARGED ACT'S.	PAGE 14.) - 16
EVID. CODE § 352. b.)	PAGE 14.) - 16.
McKINNEY V. REES 9TH Cir. 1993.)	PAGE 15.) - 16.
GIDEON V. WAINWRIGHT 372. 1963.)	PAGE 15.) - 16.
STRUCTURAL ERROR	PAGE 18.) - 18.
REASONABLE DOUBT STANDARD	PAGE 17.) - 18.
UNITED STATES V. GAUDIN 28. F.3d. 1994.)	PAGE 18.)
PYLE V. KANSAS. 1942.)	PAGE 20.)
IVAN V. CITY OF NEW YORK 407. - (1972)	PAGE 29.)
1473. c.)..	PAGE 20.)
NAPUE V. ILLINOIS. 1959.)	PAGE 20.)
OTHER	
McQUIGGIN V. PERKINS 569. U.S. 383. (2013.)	PAGE 22.)
UNITED STATES V. ARURS. 427. U.S. (1976)	PAGE 22.)
BRADY V. MARYLAND 373 U.S. (1963)	PAGE 22.)
IN re PRATT. 112. Cal App. 3d.	PAGE 20.)
MURRAY V. CARRIER (1986)	PAGE 24.)
WINSHIP. 397. U.S. (1970)	PAGE 24

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- 1 GROUND PROVISIONS INVOLVED
- 2 STATEMENT OF CASE. IS PURSUANT TO EVID CODE § 1101. b.) ADMISSION
- 3 OF UNCHARGED PRIOR ACT AND EVIDENCE OF ROBBERY.
- 4 FOLLOWING TO THE PURSUANT TO EVID CODE § 352.) ... AND "JURY
- 5 INSTRUCTION CAL CRIM 376.)...
- 6
- 7 SEE. USCS. SUPREME CT. R. 13.)..
- 8 SEE. 43. USCS. § 1424. - 3.)..
- 9 SEE. KIRANA V. JACKSON. 851. F 2d. 287.
- 10 SEE. 28. USCS. § 1257. a.)..
- 11 SEE. ORLEANS. V. DE ARMAS. 34. U.S. 224. 9.
- 12
- 13 SEE CONSTITUTIONAL RIGHT 14. AMENDMENT.
- 14 SEE. DUE PROCESS.
- 15 SEE. PREJUDICE
- 16
- 17
- 18 SEE. JAMMAL. V. VAN DE KAMP. 926. F 2d. 918.
- 19 SEE. ANGLO - AMERICAN JURISPRUDENCE RULE.
- 20 SEE. MCKINNEY. V. REES 9. TH CIR. 1993.)..
- 21 SEE EVID CODE § 352.).. b.).. UNDUE PREJUDICE
- 22 SEE EVID CODE § 1101. b.).. ADMISSION OF UNCHARGED ACT'S.
- 23
- 24 SEE. BLACK BURN. V. SUPERIOR CT. Cal. App 4TH.
- 25 SEE. IN ESTELLE AND SUPREME COURT.
- 26 SEE. PREJUDICE INSTRUCTIONS.
- 27 SEE. IN MCGUIRES.
- 28 SEE. GIDEON V. WAINWRIGHT. 372. U.S. 335.
- 29 SEE. KOTTEAKOS. 328. U.S. at §. 776.)..
- 30 SEE. FED. R. EVID CODE. § 401. IRRELEVANT EVIDENCE.
- 31 SEE EVID CODE § 1101. b.) A COMMON PLAN OR SCHEME.
- 32 SEE. BROWN V. SMITH. Cal. App. 4TH DIST. 1997.)..
- SEE. REVERSABLE ERROR.

- 1 SEE JURY INSTRUCTION CAL CRIM 376.)..
- 2 SEE LIMITED JURY INSTRUCTIONS.
- 3 SEE PREJUDICE JURY INSTRUCTION.
- 4 SEE CONSTITUTIONAL RIGHT 14. AMENDMENT.
- 5 SEE
- 6
- 7
- 8 SEE "REASONABLE DOUBT STANDARD".
- 9 SEE 5TH AND 6TH CONSTITUTIONAL AMENDMENT.
- 10 SEE NEDER. V. UNITED STATES Supra. 527. U.S. at 8.
- 11 SEE "STRUCTURAL ERRORS".
- 12 SEE JOHNSON V. UNITED STATES Supra. 520. U.S. at 469.
- 13 SEE "In re WINSHIP. 397. U.S. 358. 364. 1970.)..
- 14 SEE UNITED STATES V. GAUDIN. 515. U.S. 506. 510. 511.
- 15 SEE UNITED STATES. V. GAUDIN. 28. F 3d. 943. 951. 9TH
- 16 SEE VICTOR. V. NEBRASKA. 511. U.S. 1. 6. 1994.)..
- 17 SEE ESTELLE. V. MCGUIRE. 502. U.S. 62. 72. 1990.)..
- 18 SEE BOYDE. V. CALIFORNIA. 494. U.S. 370. 380. 1990.)..
- 19 SEE. e.g.. ROSE V. CLARK. Supra. 478. U.S. at 577.-78.
- 20 SEE JOHNSON. V. UNITED STATES. supra. 520. U.S. at 468-69.
- 21 SEE AUTOMATIC REVERSAL.
- 22
- 23 SEE A MISCHANCE OF JUSTICE
- 24 SEE ACTUAL INNOCENCE.
- 25 SEE WINSHIP. Supra. at 364.
- 26 SEE IVAN V. V. CITY OF NEW YORK. 407. U.S. 203. 205.
- 27 SEE In re WINSHIP. 397. U.S. 358. 1970.)..
- 28 SEE BASIS.
- 29 SEE ENGLE. Supra. at 131.

- 1 SEE VICTOR V. NEBRASKA 511 U.S. 16 (1994.)
- 2 SEE BOUSLEY V. UNITED STATES 523 U.S. 614 (1998.)
- 3 SEE UNITED STATES V. GEOROS 870 F.3d 890 896 9TH CIR. 2017.)
- 4 SEE 14th AMENDMENT
- 5 SEE 5TH AND 6TH AMENDMENT.
- 6 SEE RYLE V. KANSAS 1942 317 U.S. 213.
- 7 SEE MAPHE V. ILLINOIS 1959 360 U.S. 264.
- 8 SEE PENAL CODE § 1473. c).
- 9 SEE IN RE PRATT 112 Cal App 3d 795 864.
- 10 SEE FALSE EVIDENCE
- 11 SEE IN RE WRIGHT 78 Cal App 3d 788 808.
- 12 SEE BRADY V. MARYLAND 373 U.S. 83 87 (1963.)
- 13 SEE UNITED STATES V. AGURS 427 U.S. 97 (1976).
- 14 . . .
- 15
- 16 SEE JACKSON V. VIRGINIA 1979 443 U.S.
- 17 SEE RYLE V. KANSAS 1942 317 U.S. ~~213~~ 216
- 18 SEE MAPHE V. ILLINOIS 1959 360 U.S. 264.
- 19 SEE PENAL CODE § 1473. c).
- 20 SEE IN RE PRATT 112 Cal. App 3d 795 864.
- 21 SEE IN RE WRIGHT 78 Cal App 3d
- 22 SEE MISCHARRING OF JUSTICE
- 23 SEE JUSTICE STEVENS post at 504.
- 24 SEE JUSTICE STEVENS post at 499. *ibid.*
- 25 SEE WALTREUS Rule 1). FUNDAMENTAL ERROR.
- 26 SEE EVID CODE § 1101. b.)
- 27 SEE EVID CODE § 352. b.)
- 28 SEE STRICKLAND V. WASHINGTON 466 U.S. 668 697.
- 29 SEE ROSE V. LINDY 455 U.S. 509 543 - 1982.
- 30 SEE 28 U.S.C 82243.
- 31 SEE SMITH V DAVIS 740 Fed. Appx 131 9TH.
- 32 SEE (WALTREUS. Rule 1.)
- SEE HARRIS. Supra. 5 Cal. 4TH at pp. 829.
- SEE IN RE CLARK 1993 5 Cal. 4TH 750.



STATEMENT OF THE CASE

SUMMARIZE FACTS OF THE CASE...

THE TRIAL COURT DECIDING RULING OF THE SPECIFIC ADMISSION OF THE UNCHARGED PRIOR ACT AND ITS EVIDENCE OF ROBBERY.

WERE ADMITTED REGARDING SUBSEQUENTLY TO ALLOW THE PROSECUTOR TO PRESENT THE EVIDENCE OF ROBBERY.

TO IN ORDER TO PROVE THE EXISTENCE OF A COMMON SCHEME OR PLAN WITH REGARDING TO THE CHARGES "CARJACKING AND KIDNAPPING".

KIDNAPPING DURING CARJACKING. ADDITIONALLY, THE COURT DECIDED TO USE INSTRUCTIONS TO INSTRUCT THE JURORS THAT THE

COULD CONSIDER SUCH EVIDENCE FOR THE PURPOSE OF DECIDING WHETHER DEFENDANT, PETITIONER HAD A PLAN TO COMMIT THE

ALLEGED OFFENSES. THE PROSECUTOR "ARGUES" THAT THE ALLEGED OFFENSES WERE SUFFICIENTLY SUCH SIMILAR AS TO THE UNCHARGED

PRIOR INCIDENT. THE TRIAL COURT JUDGE WEIGHED UPON ITS ADMISSION DECIDING

THAT THE ALLEGED CHARGED OFFENSES WERE PURSUANT TO THE SAME DESIGN AND THAT THEY WERE SUFFICIENTLY SIMILAR.

...

THE TRIAL COURT AND STATE PROSECUTOR RULED THE ADMITTINGS OF THE ADMISSION OF THE UNCHARGED PRIOR ACT AND ITS EVIDENCE

PURSUANT TO EVID CODE § 1101. b.) EVIDENCE THAT A DEFENDANT COMMITTED CRIMES OTHER THAN THOSE FOR WHICH HE IS ON TRIAL

IS ADMISSIBLE WHEN IT IS LOGICALLY, NATURALLY AND BY REASONABLE INFERENCE RELEVANT TO PROVE SOME FACT AT ISSUE

SUCH AS MOTIVE, INTENT PREPARATION. Plan or IDENTITY. EVID CODE § 1101. b.) ... SHOULD OF NOTWITHSTANDING BE EXCLUDED TO

PURSUANT TO EVIDENCE CODE SECTION 352. b.) DISCRETION OF THE COURT TO EXCLUDE EVIDENCE SUBJECT TO A WEIGHING UNDER

ITS ADMISSION. EVID CODE § 1101. b.) ... WAS FOLLOWED WITH EVID CODE 352.)

WITH THE INCLUDINGS OF JURY INSTRUCTION CALCRIM 376.)

SUMMARIZING FACTS OF THE CASE.

STATED FACTS

DEFENDANT PETITIONER, WAS WALKING DOWN THE STREET WHEN IN A COMPLETE STRANGER VILLANUEVA. SEE THE DEFENDANT WALKING DOWN THE STREET AND CALLS OUT TO HIM... WHEN IN DEFENDANT MAKES A QUESTIONABLE UNSETTLED DETERMINATION TO GO WALK BACK UP AND APPROACH THE COMPLETE STRANGER WHO THEN OFFERS DEFENDANT A ROOM AND ROOM KEY, AS STATED BY MR VILLANUEVA. THEN HE... STATES AFTER KINDLY, OFFERING THE ROOM AND ROOM KEY, DEFENDANT ASKS FOR A RIDE TO A FRIEND HOUSE VILLANUEVA KINDLY, AGREES UP TO WERE MR VILLANUEVA. STATED HE KINDLY, OFFERED DEFENDANT CISNEROS. A ROOM AND ROOM KEY.

MR VILLANUEVA. R. "CREDIBILITY WAS IN SERIOUS AND UNDER MUCH QUESTION BECAUSE HE... GAVE MANY DIFFERENT VARIOUS VERSIONS AND SO HIS... CREDIBILITY WAS IN QUESTION AS TO ANYTHING HE SAID HAD IT HAPPEN OR THAT IF IT EVER HAD HAPPEND... OR THAT IF IT EVER HAPPENED AS HE SAID".

AS TO DEFENDANT PETITIONER USED ALLEGED UNCHARGED INCIDENT AS ITS STATED... DEFENDANT CISNEROS. WALKS UP AND APPROACHES A COMPLETE STRANGER IN A CAR VEHICLE WHEN IN HE... STARTED TO CONVERSAT WITH THE COMPLETE STRANGER AND THEN STARTED TO DEPRIVE HIM OF PROPERTY, IT IS SAID AND SHOWS DEFENDANT WALK'S UP TO THE COMPLETE STRANGER WITH "INTENT".

STATED FACT THE STATE APPELLANT COURT AND ITS STATEMENTS OPINION STATING THAT THE ADMISSION OF EVIDENCE WHICH WAS ADMITED PURSUANT TO REASONS AND RULINGS TO EVID CODES 1101.6). AND EVID. CODES 352.). WAS ERRONEOUS BUT THEN WHY... DID THEY STATE AND REDIRECT THERE RULINGS AND AFFIRMED CONVICTION.

REASONS FOR GRANTING THE PETITION

PETITIONER ENTERS TO SUBMIT THIS PETITION INTO THIS UNITED STATES SUPREME COURT WITH THE UNDERSTANDING THAT THE PURPOSE OF THIS SECTION OF THE PETITION IS TO EXPLAIN TO THIS COURT WHY IT SHOULD GRANT THIS WRIT OF CERTIORARI.

SUCH BEING UNDER THE ERRONEOUS ERRORS OF THE LOWER COURT'S DECISIONS.

WITH PETITIONER CISNEROS UNDERSTANDING THAT THIS COURT AND ITS DECISIONS GO ON TO DECIDE CASES THAT PRESENT ISSUES OF GREAT NATIONAL IMPORTANCE OF THE QUESTIONS INVOLVED WHICH THIS COURT SHOULD RESOLVE IN ITS CONFLICTS WITH ITS DECISIONS FROM ALL THE COURT'S.

THE U.S. SUPREME COURT HAS THE IMPORTANT CONSIDERATIONS FOR ACCEPTING A CASE FOR REVIEW INCLUDING THE EXISTENCE OF A CONFLICT BETWEEN THE DECISIONS OF ANOTHER THE MOST IMPORTANTLY FUNCTION IS TO RESOLVE THE DISAGREEMENTS AMONG THE LOWER COURTS AND COURT'S AN THERE UNCONSTITUTIONAL LEGISLATIONS AND JUDGEMENTS THAT HAVE SPECIFIC LEGAL QUESTIONS, REVIEW THE FOLLOWING SIMPLE FACTS OF INJURYS THAT HAVE OCCURRED.

PETITIONER REQUESTS FOR THE U.S SUPREME COURT TO ACCEPT THIS PETITION ON BEHALF OF PETITIONER CISNEROS. AND FOLLOWING STATED CLAIMS AS RAISED SEE USCS SUPREME CT. R. 13.)). WERE ITS STATES THAT A PETITION FOR CERTIORARI IS TO AN FOR REVIEW JUDGMENT OF COURT OF APPEALS IN FEDERAL CRIMINAL CASES OF A JUDGMENT OF A LOWER COURT SHOULD BE AS THE STATES FOR REVIEW IS SUBJECT TO DISCRETIONARY REVIEW BY THE COURT.

SEE 48. U.S.C.S. §1424.-3.)). JURISDICTION OF PROCEDURE REVIEW THE Rule/Ruling OF THE Appellant Division OF THE DISTRICT COURT ON SUCH Appeals FOR THE COURT MAY REVIEW IN THE UNITED STATES COURT OF Appeals FOR THE NINTH CIRCUIT AND IN THE SUPREME COURT NOT WITHSTANDING THE ESTABLISHMENT OF THE Appellant COURT. ALSO SEE. KIRKINA. V. JACKSON 857. F.2d. 287. 1988. U.S. App. LEXIS 9285. 9TH CIR. 1988.)). U.S. SUPREME COURT HAS JURISDICTION OVER ISSUES OF FEDERAL AND STATE.

FOLLOWING WITH SEE. 28. U.S.C.S. §1257. 9.)). FINAL JUDGMENT OR DEGREE'S DECISION RENDERED BY THE HIGHEST COURT OF A STATE IN WHICH A DECISION COULD BE HAD MAY BE REVIEWED BY SUPREME COURT BY WRIT OF CERTIORARI WHERE THE VALIDITY OF TREATY OR STATUTE OF THE UNITED STATES IS DRAWN IN QUESTION ON THE GROUND OF THE BEING REPUGNANT TO THE CONSTITUTION TREATIES OR LAW OF THE UNITED STATES. SEE ORLEANS. V. DE ARMIAS. 34. U.S. 224. 9. LEd. 109. 1835. U.S. LEXIS. 347. 1835.)). JURISDICTION EXTENDS TO RIGHTS PROTECTED BY CONSTITUTION TREATIES OR LAW OF UNITED STATES.

REASON FOR GRANTING PETITION.

PETITIONER RAISES HIS... FIRST GROUND ARGUMENT WHICH IS THE PRESENTATION AND FACTOR OF THE WHOLE TRIAL AND PROCESS WHICH SUCH PRESENTATION OF THE ADMISSION OF THE UNCHARGED PRIOR ACT AND ITS EVIDENCE OF ROBBERY, VIOLATED CISNEROS' DEFENDANT'S 14. AMENDMENT DUE PROCESS RENDERING FAIR TRIAL. THE PURSUANT TO THE PREJUDICE WEIGHED EVIDENCE WHICH INCLUDING'S WERE TO A PREJUDICIALLY "A ABUSE OF DESECRATION BY THE STATE COURT AND ITS JUDGE BUT ALSO BY THE STATE PROSECUTOR. WHOM ARGUED TO THE STATE COURT THAT THE EVIDENCE OF THE UNCHARGED PRIOR ACT OF ROBBERY WOULD BE ADMITTED ONLY FOR A LIMITED PURPOSE OF DECISION/DECIDING WHETHER MR. CISNEROS HAD A PLAN OR SCHEME TO COMMIT THE CARJACKING AND KIDNAPPING OF MR. VILLANUEVA. AND THAT BOTH INCIDENT'S...

1 WERE SUFFICIENTLY SIMILAR SO SUCH TO A COMMON PLAN OR SCHEME...
2 PETITIONER/DEFENDANT. OBJECTED TO ITS GIVING AND ITS ADMISSION
3 IT WAS BECAUSE IT WAS AND IS NOTORIOUSLY PREJUDICE AN
4 INFLAMMATORY EFFECT AN GROSS UNFAIRNESS DEPRIVING DEFENDANT'S
5 FAIR TRIAL THE SHOWING OF THE EVIDENCE OF THE UNCHARGED PRIOR ACT
6 TO JUROR'S CREATES RISKS OF DEFENDANT'S DISPOSITION THAT HE...
7 HAS A CRIMINAL DISPOSITION TO COMMIT OFFENSES AND IS
8 THEREFORE GUILTY OF THE CHARGED OFFENSE BECAUSE OF THE
9 IMPACT ON THE JUROR'S MINDS ASSUME HE'S... ACTUAL GUILTY.
10 HERE IN DEFENDANT CISNEEDS. CASE THE STATE PROSECUTOR AND
11 STATE TRIAL COURT SHOWED AND GAVE PERMISSIBLE INFERENCES
12 TO JUROR'S TO DRAW FROM "THE EVIDENCE & ITS ADMISSION DID IN
13 FACT VIOLATE PETITIONER'S, DEFENDANT DUE PROCESS AS SEE IN
14 JAMMAL. V. DE KAMP. VAN. 926. F.2d. 918. 920. 9TH CIR. 1991.) (**8.)
15 BECAUSE DRAWING PROPENSITY INFERENCES FROM OTHER ACTS
16 EVIDENCE OF CHARACTER IS IMPERMISSIBLE UNDER AN HISTORICAL
17 GROUNDED RULE OF ANGLO-AMERICAN JURISPRUDENCE. ALSO SEE.
18 MCKINNEY V. REE'S 9TH CIR. 1993.) 993. F.2d. 1378. 1385. } ... ALSO
19 FOLLOWED BY EVID CODE § 352. b.) UNLAWFUL PREJUDICE ALSO SEE..
20 EVID CODE § 1101. b.) ADMISSION OF PRIOR UNCHARGED ACT AN EVID.
21 UNDER SUCH A COMMON PLAN OR SCHEME.. HAVE TO BE HIGHLY
22 HIGH DEGREE IN SIMILARITY'S AND A PLAN.. HAS TO EXIST..
23 ALSO SEE. BLACK BURR V. SUPERIOR COURT. Cal. App. 4TH DIST.
24 1993. 21. Cal. App. 4TH 414. 27. Cal. Rptr. 2d. 204. 1993. Cal App.
25 (LEXIS 1309. THE STATED CASE ABOVE "JAMMAL. V. VAN DE -
26 KAMP.) SHOULD BE SEEN.
27 PETITIONER CONTINUES INDICATING THAT BECAUSE SHOWING
28 DEFENDANT MIGHT HAVE DONE OR COMMITTED THE UNCHARGE
29 PRIOR ACT CREATES DISPOSITION OF ACTUAL GUILT VIOLATING
30 PETITIONER DUE PROCESS AS SEEN IN "ESTELLE THE SUPREME
31 COURT OVERTURNED "ERRONEOUS HOLDING'S ON THE ADMISSION
32 OF EVIDENCE COUPLED WITH A PREJUDICE INSTRUCTION"...
33 THAT RENDERED, RENDERING MCGUIRES TRIAL FUNDAMENTALLY
UNFAIR. SEE GIDEON. V. WAINWRIGHT. 372. U.S. 335. 342. 1963.)
ALSO SEE. KOTTEAKOS. 328. U.S. AT 776. } ... ADDING SEE. FED. R. EVID.

CODE § 401. "IRRELEVANT EVIDENCE," AS PETITIONER ARGUES, THAT
THE EVIDENCE WAS "IRRELEVANT AND IRRELEVANT EVIDENCE ONLY
HAS A SUBSTANTIAL INJURIOUS EFFECT OR INFLUENCE ON DETERMINATION
ON JURORS' JURY'S MINDS AN VERDICT WHEN IT COMES AN PRETAINS
TO EVIDENCE AND SO SUCH EVIDENCE PRESENTED WEIGHED UPON
OF UNCHARGED PRIOR ACT SO SUCH AS THAT DEFENDANT CISNEROS
HAS PROPENSITY TO WALK UP AN APPROACH COMPLETE STRANGERS
IN CAR VEHICLE AND START TO DEPRIVE THEM OF PROPERTY
WAS HIGHLY "IRRELEVANT AN "PREJUDICE VIOLATING DEFENDANTS
DUE PROCESS".

THE STATE PROSECUTOR ARGUED TO THE COURT THAT BOTH INCIDENTS
WERE SUFFICIENTLY SIMILAR, WHEN THEY WERE NOT...
PROSECUTOR STATED THAT DEFENDANT WALKING DOWN THE STREET
WHEN IN A COMPLETE STRANGER "CALLS OUT TO DEFENDANT AN
DEFENDANT MAKES A UNSETTLED QUESTIONABLE DETERMINATION
TO GO UP AND APPROACH THE STRANGER WHO ENGAGED IN THE
CONTACT WITH DEFENDANT... WAS SUFFICIENTLY SIMILAR
AS TO DEFENDANT WITH "INTENT WALKING UPON AN APPROACHES
A COMPLETE STRANGER" IN A CAR VEHICLE... WAS...
SUCH AS A COMMON PLAN OR SCHEME.

THE STATE COURT AND JUDGE FOLLOWING, THERE WEIGHED DESCERTION
OF EVIDENCE WAS "ERRONEOUS AND PREJUDICE"...
THE STATE PROSECUTOR ARGUED THAT THE ADMISSION OF THE UNCHARGED
ACT AND ITS EVIDENCE WAS TO BE ADMITTED PURSUANT TO
EVID CODE § 1101. b.) THE ALLOWINGS OF ADMISSION OF EVIDENCE TO
PURSUANTS OF EVID CODE § 1101. b.) SHOULD ONLY, BE ADMISSION
WHEN ITS OFFERED TO PROVE A FACT OR ISSUE SUCH AS A
COMMON PLAN OR SCHEME AND UNDER SUCH A COMMON PLAN.
HAS TO HAVE A HIGH DEGREE OF SUFFICIENT SIMILARITY, S TO
SUPPORT THE INFERENCE THAT THEY MANIFESTED IN THE SAME
COMMON PLAN OR DESIGN TO THE CHARGED OFFENSE AS SEE.
EVID CODE § 1101 b.)... ALSO SEE. BRAUN V. SMITH. CAL APP.
4TH DIST 1997. 55. CAL APP 4TH 767. 64 CAL RPT. 2d. 301.
1997. CAL. APP. LEXIS. 452. ALSO SEE. BRECHT V. ABRAHAMSON. 113

SECOND GROUND REASON.

1 PETITIONER CISNEROS. ARGUES AND RAISES THE ISSUES OF THE STATE COURT
2 IN THE STATES PROSECUTOR ERRONEOUS ADMISSION OF JURY INSTRUCTION
3 THE JURY INSTRUCTIO CALCRIM 376.)... IN WHICH IT WAS COUPLED WITH
4 AND UNDER THE REASONS OF LIMITED REASONS OF THE ADMISSION OF
5 THE UNCHARGED PRIOR ACT IN ITS EVIDENCE OF ROBBERY."
6 UNDER PURSUANT TO EVID CODE § 1101. b.) ADMISSION OF UNCHARGED
7 PRIOR ACT AND EVIDENCE COULD AN SHOULD ONLY BE ADMITTED
8 WHEN IT OFFERS TO PROVE A FACT OR ISSUE SUCH A COMMON "PLAN
9 OR SCHEME... WAS ERRONEOUS AND "PREJUDICE ABUSE VIOLATING
10 DEFENDANT'S DUE PROCESS "14. AMENDMENT"...
11 WHICH WAS ALSO PURSUANT TO THE ERRONEOUS GIVING "JURY
12 INSTRUCTION CALCRIM 376.)... WHICH DEFENDANT "OBJECTED";
13 TO THE GIVING OF "JURY INSTRUCTION WAS AND BECAME A
14 STRUCTURAL ERROR; THE DECISION OF ADMISSION VIOLATED DEFENDANT'S
15 FUNDAMENTAL FAIR TRIAL AND DUE PROCESS 14. AMENDMENT'S...
16 WHICH IT INCLUDES THE RIGHT VIOLATIONS OF THE RIGHT TO A
17 "JURY AND JURY VERDICT FOLLOWING THE RIGHT TO A JURY
18 INSTRUCTION WITHIN THE MEANINGS OF THE FULL PROTECTION
19 OF THE REASONABLE DOUBT STANDARD ALL WHICH ARE
20 FUNDAMENTAL CONSTITUTIONAL BASIC PRINCIPLES AND ARE ALSO
21 WITHIN THE 5TH AND 6TH... 14. AMENDMENT'S....
22 BECAUSE AS SEE IN NEDER. V. UNITED STATES Supra. 527. U.S. at 8.
23 A DEFECTIVE REASONABLE DOUBT INSTRUCTION IS STRUCTURAL
24 ERROR... AND THIS IS SUBJECT TO A AUTOMATIC REVERSAL...
25 BECAUSE ITS NOT DURING THE PRESENTATION OF TRIAL PROCESS...
26 BUT BEFORE THE TRIAL WHEN AND WHERE THE ERROR OCCURES
27 ALSO SEE. JOHNSON V. UNITED STATES. Supra. 520. U.S. at 469...
28 AS IT STATES A ERRONEOUS DEFINITION OF REASONABLE DOUBT
29 IS NEVER HARMLESS BECAUSE IT VITIATES ALL OF THE JURY'S
30 FINDINGS AND ONE COULD ONLY SPECULATE WHAT A PROPERLY
31 CHARGED JURY MIGHT HAVE DONE.
32

PETITIONER ALSO ADDS THAT THE STATE COURT AND STATE PROSECUTOR...
ERRORED UNDER AN INREGARDS TO THE REASONABLE DOUBT
STANDARD THAT FULLY PROTECTS A INDIVIDUAL DEFENDANT

1 AS THAT A STATE PROSECUTOR MUST PROVE EACH AND EVERY ELEMENT
2 BEYOND A REASONABLE DOUBT OF THE CRIME FOR WHICH HE'S... IS
3 CHARGED TO SEE "In re Winship. 397. U.S. 358. 364. 1970.1. Also
4 SEE UNITED STATES V. GAUDIN. 515. U.S. 506 510. 511. 512. 514. 520.
5 1995.).. UNCONSTITUTIONAL WITHDRAWAL FROM JURY OF QUESTION
6 WHETHER GOVERNMENT PROVED CRITICAL ELEMENT OF OFFENSE
7 CANNOT BE HARMLESS. Also adding UNITED STATES V. GAUDIN 28
8 F.3d. 943. 951 9th Cir 1994.).. aff. d. 515. U.S. 506. 1995.)...
9 PETITIONER ALSO RAISE TO THE U.S. SUPREME COURT THAT A DUE PROCESS
10 VIOLATION IF THERE IS A REASONABLE LIKELIHOOD THAT THE JURY
11 UNDERSTOOD THE INSTRUCTIONS TO ALLOW CONVICTION BASED ON PROOF
12 INSUFFICIENT TO MEET CONSTITUTIONALLY REQUIRED REASONABLE
13 DOUBT STANDARD AS SEEN IN "VICTOR V NEBRASKA. 511. U.S. 1. 6. 1994)
14 IT IS ALSO A DUE PROCESS VIOLATION IF THERE IS REASONABLE LIKELIHOOD
15 THAT JURY UNDERSTOOD THE CHALLENGED INSTRUCTION CONSTITUTIONALLY
16 CONSIDERING IN THE CONTEXT OF OTHER INSTRUCTIONS AN OF TRIAL
17 AS A WHOLE "INFECTED THE ENTIRE TRIAL BE THAT JUROR'S HAD
18 APPLIED THE CHALLENGED INSTRUCTION IN A UNCONSTITUTIONALLY
19 WAY, IS A REQUIREMENT OF A REVERSAL SEE ESTELLE V. MCGUIRE.
20 502. U.S. 62. 72. 1990.).. ALSO ADDING SEE BOYCE V. CALIFORNIA.
21 494. U.S. 370. 380. 1990.)... FOLLOWING SEE... E.G. ROSE V. CLARK.
22 SUPRA. 478. U.S. at 577. - 78. AND CITING CASE. JOHNSON V. UNITED
23 STATES. SUPRA. 520. U.S. at 468. - 69.

24
25 PETITIONER ALSO ARGUES THAT THE STATE PROSECUTOR AN COURT
26 DIRECTED AND STATED TO JUROR'S THAT THEY DONT NEED TO
27 BE CONVINCED THAT THE INCIDENT'S HAD EVER OCCURRED
28 OR THAT THEY THE JUROR'S DONT NEEDS TO BE CONVINCED
29 BEYOND A REASONABLE DOUBT THIS WAS ERRONEOUS AN A
30 VIOLATION OF DUE PROCESS TO DEFENDANT FOLLOWING WITH
31 THE INCLUDING'S AN STRUCTURAL ERROR AN FOR THOSE REASONS
32 ALONE THIS COURT MUST REVERSE DEFENDANT CONVICTION...
AND JUDGEMENT IF IT HAD NOT BEEN FOR THE ERRONEOUS
GIVING JURY INSTRUCTION AND THE COMMISSION OF UNCHARGED
ACT AN EVID., THE OUTCOME WOULD OF BEEN MUCH FAVORABLE

THIRD GROUND REASON.

PETITIONER'S RAISED ARGUMENT HERE PERTAINS TO THE GROUND CLAIM
OF HIS CONVICTION AND SENTENCE PENAL CODE § 209.5. c.) KIDNAPPING
IN A COMMISSION OF CARJACKING. THE OFFENSES OF "CARJACKING" OR
AND "KIDNAPPING".
WHICH THE STATES TRIAL COURT AND STATE PROSECUTOR'S DECISION
WAS ERRONEOUS VIOLATING DEFENDANT'S CISNEROS. 14. AMENDMENT
DUE PROCESS. FOLLOWED WITH A MISCHANCE OF JUSTICE OF ITS
DECISION TO CONVICTE DEFENDANT, PETITIONER, BECAUSE OF
PETITIONER CISNEROS. "ACTUAL INNOCENCE" TO THE OFFENSE OF
"CARJACKING OR AND THE OFFENSE OF "KIDNAPPING AND THE
PURSUANT TO PENAL CODE § 209.5. c.) KIDNAPPING DURING A
CARJACKING..
BESIDES PETITIONER'S CLAIM "PLEA OF "ACTUAL INNOCENCE", THIS
COURT AND ANY OTHER CANNOT BE CONFIDENCE IN THE OUT-
COMINGS OF THIS "VERDICT AND "CONVICTION... BESIDES THAT
THE PROSECUTOR "COULD NOT AND "DID NOT ESTABLISH THE
CRITICAL ELEMENTS, HE... "DID NOT AND "COULD NOT OF
ESTABLISH ANY OF THE ELEMENTS BEYOND A REASONABLE
DOUBT. SEE WINSHIP. SUPRA. AT 364. ALSO HEADING IN IVAN V.
V. CITY OF NEW YORK 407. U.S. 203. 205. 1972.)...
PETITIONER ADDS THAT "IN RE WINSHIP. 397. U.S. 358. 1970.).
WHICH WAS THE BASIS AND "PREJUDICE FOR THE PRISONER".
CONSTITUTIONAL CLAIM... IN ENGE. SUPRA. AT 131. HELDS THAT
THE DUE PROCESS CLAUSE PROTECTS THE ACCUSED AGAINST
CONVICTION EXCEPT UPON PROOF BEYOND A REASONABLE DOUBT
THEN PETITIONER ADDS THAT PURSUANT TO THE STATES CONVICTION
AND THE COURT'S DECISIONS THE DECISION ALSO CAME TO DIRECT
JURORS WITH A INCLUDED "STRUCTURAL DEFECT... A INSTRUCTION
INSTRUCTING JURORS THAT ALLOWS A CONVICTION BASED ON
PROOF INSUFFICIENT TO MEET CONSTITUTIONAL REQUIREMENTS
SEE VICTOR V. KEBRASKA. 511. U.S. 1. 6. 1994.). DUE PROCESS VIOLATION.

1 BUT PETITIONER ADDS THAT NOT JUST "THE ERRONEOUS JURY INSTRUCTION
2 WITH THE VIOLATIONAL REASONABLE DOUBT STANDARD... AFFECTED,
3 BUT THAT THE PROSECUTOR AND COURT NEVER ESTABLISHED ANY OF
4 ELEMENTS FOR WHICH PETITIONER WAS CONVICTED TO BECAUSE
5 THE STATE COULD NOT ESTABLISH ANY OF THE CRITICAL ELEMENTS AN
6 BEYOND A REASONABLE DOUBT, THE DEFENDANT IS ACTUAL
7 INNOCENT OF THOSE OFFENSES SEE. BOUSLEY V. UNITED STATES.
8 523. U.S. 614. 1998.)). ADDING UNITED STATES V. GEOROS. 870. F.3d.
9 890. 896. 9TH CIR. 2017.)). AS IN THE ABOVE CASE STATES THAT IF AN
10 ELEMENT IS NOT ESTABLISHED A DEFENDANT IS NECESSARILY
11 INNOCENT OF THAT OFFENSE. THIS WOULD ALSO INCLUDE THE FACT
12 AND FACTOR OF THE PROSECUTOR MISCONDUCT AND HIS ADMITTING
13 AND PRESENTING FALSE EVIDENCE, WITNESS AND TESTIMONY AND
14 SIMPLY PREJUDICE FALSE EVIDENCE THAT VIOLATES CISNEROS.
15 FAIR TRIAL DUE PROCESS CONSTITUTIONAL 14. AMENDMENT WHICH
16 FOLLOWS HIS DEFENDANTS 5TH 6TH CONSTITUTIONAL AMENDMENTS
17 FIRST SEE PYLE V. KANSAS. 1942. 317. U.S. 213. 216. AND NAPUE V.
18 ILLINOIS. 1959.)). 360. U.S. 264. WHICH IT STATES ITS OBVIOUSLY
19 MISCONDUCT FOR A PROSECUTOR TO KNOWINGLY, KNOWING TO USE
20 PREJUDICE FALSE EVIDENCE WITNESS AND TESTIMONY TO SEEK A
21 CONVICTION SUCH CONDUCT VIOLATES ONE'S DUE PROCESS CLAUSE.
22 ALSO MAY PETITIONER ADD THAT HOWEVER UPON CONVICTION A
23 WRIT OF HABEAS CORPUS IS AVAILABLE AND OFTEN USED TO
24 OVERTURN THE CONVICTION UPON GROUNDS THAT FALSE EVIDENCE
25 THAT IS SUBSTANTIAL MATERIAL OR PROBATIVE ON THE ISSUE OF
26 GUILT, ALSO. CONVICTION CAN BE USED TO OVERTURN OF THE
27 GROUND ISSUE.
28 SEE PENAL CODE §1473. C.). IN RE PRATT. 12. CAL. APP. 3d. 795. 864.
PETITIONER STATES THAT HE... HAS THE BURDEN TO ESTABLISH BY
A PREPONDERANCE OF EVIDENCE THAT THE EVIDENCE WAS FALSE
AND THAT FALSE EVIDENCE COULD OF AFFECTED THE OUTCOME
SEE IN RE WRIGHT. 78. CAL APP. 3d. 788. 808. WHICH THERE IS
A SUBSTANTIAL SHOWING THAT IT HAS... AFFECTED THE OUTCOME.

1 AND SO FOR THESE REASONS ALONE PETITIONER'S CONVICTION MUST BE
2 REVERSED. NOT JUST THAT HERE WE HAVE "A MISARRANGE OF
3 JUSTICE - A PARTICULAR DEFENDANT WHO IS "ACTUAL INNOCENT."
4 AND IN WHERE NOT ANY COURT COULD FIND THIS CASE AND
5 PETITIONER'S OUTCOME OF CONVICTION WITH THE CONFIDENCE OF THE
6 OUTCOME, NOT JUST THAT THIS PETITION BY U.S SUPREME COURT
7 SHOULD BE GRANT BUT THAT AS STATED THE REVERSAL OF THIS
8 INDIVIDUAL INMATE PRISONER MR. CISNEROS. CONVICTION AND
9 SENTENCE SHOULD ALSO TO, RELIEF SHOULD BE GRANT BECAUSE
10 THERE IS "NO DOUBT THAT THIS PETITIONER AND CASE WAS VERY
11 UNCONSTITUTIONAL AND GROSSLY UNFAIR, AN INFECTIVE OF HIS
12 ENTIRE TRIAL AND PROCESS VIOLATING HIS FULL AND ALL DUE PROCESS
13 THERE IS NO DOUBT PETITIONER'S ACTUAL INNOCENCE CLAIM AND
14 ERRONEOUS CONVICTION CAN BE OR ~~SHOULD BE~~ DENIED HERE BY
15 THIS COURT THERE'S IS TO MANY VARIOUS UNCONSTITUTIONAL
16 CONSTITUTIONAL RIGHT VIOLATIONS THAT LEAD TO DEFENDANT'S
17 ERRONEOUS OUTCOME AND WE CAN BELIEVE THAT IF PETITIONER
18 TRIAL AND PROCESS WAS FREE FROM ANY OR ALL ERRORS AND
19 VIOLATIONS A MUCH FAVORABLE OUTCOME WOULD OF BEEN MORE
20 THEN JUST A POSSIBLE OUTCOME 1.) BECAUSE "NO REASONABLE
21 JUROR'S FIND/FOUND MR VILLANUEVA (RELIABLE OR CREDITABLE)
22 THEY FOUND HIM... IN AND WITH "SERIOUS QUESTIONING AND SO
23 THE ONLY REASON WHY... THEY FOUND DEFENDANT CISNEROS. GUILTY
24 IT WASN'T BECAUSE THEY FOUND MR VILLANUEVA'S "RELIABLE OR
25 "CREDITABLE IT WAS BECAUSE THEY WERE DIRECTED TO
26 FOLLOW A DIRECTIVE INSTRUCTION AND THEY WERE DIRECTED
27 TO FIND DEFENDANT CISNEROS. GUILTY, AND THAT THEY MUST
28 FIND DEFENDANT GUILTY OF THE OFFENSE'S IN THAT THEY
29 NEED NOT TO BE CONVICTED BEYOND A REASONABLE DOUBT
THAT THE INCIDENT OR INCIDENTS HAD EVER BEEN COMMITTED
AN THAT ALSO THE STATE PROSECUTOR NEED NOT PROVE ANY

CRITICAL OR ELEMENT OF THE OFFENSE OR OFFENSES INTO WHICH MR. CISNEROS. IS BEING CONVICTED UNDER OF SEE. BRADY V. MARYLAND. 373. U.S. 83. 87. 1963.). THAT RIGHT IS UNQUESTIONABLY PROTECTED BY THE DUE PROCESS CLAUSE. ALSO IBID.). UNITED STATES V. BAGLEY. 473. U.S. 667. 1985.). AND UNITED STATES V. AGURS. 427. U.S. 97. 1976.). THE COURT HAS REPEATEDLY EMPHASIZED THE FUNDAMENTAL IMPORTANCE OF THAT FEDERAL RIGHTS ALSO THE BRADY RULE IS BASED ON THE REQUIREMENT OF DUE PROCESS. ITS PURPOSE IS. TO ENSURE THAT A MISCHARRINGE OF JUSTICE DOSE NOT OCCURE.

AND SO PETITIONER UNDER SUCH POINTS OF UNFUNDAMENTAL UNFAIRNESS AN MISCHARRINGE OF JUSTICE. ASK'S THIS U.S SUPREME COURT TO FIRST GRANT THE PETITION WRIT OF CERTIORARI. AND THEN GRANT PETITIONER RELIEF... BY REVERSAL OF CONVICTION AND JUDGMENT OF COURT AND THEN RELEASE INMATE PRISONER MR CISNEROS. M. OF THE COUNTS.

BECAUSES OF THE ERRONEOUS FACT FINDING THAT RESULTED IN A ERRONEOUS WRONGFUL UNJUSTICE CONVICTION. AND FAILURE TO HEAR THE CLAIMS WOULD CONSTITUTION IN MISCHARRINGE OF JUSTICE SEE: McQUIGGIN V. PERKINS 569 U.S 383. 391-93. 2013.).

SUBSEQUENTLY FOLLOWING REASONS.

PETITIONER ARGUES HERE IN THE REASONS TO THE NINTH CIRCUIT COURT
COURT OF APPEALS DEYING AND DENIAL DECISION TO DEY PETITIONER
THE OPPORTUNITY TO APPEAL AND HIS (COA) CERTIFICATE
AND IN ITS STATING THAT PETITIONER CISNEROS HAD NOT SHOWN
SUBSTANTIAL DENIAL OF CONSTITUTIONAL RIGHT VIOLATION'S WITH
A DECISION ALSO TO NOT RECONSIDERATE THE CHANCE TO ALL
THE RAISED GROUND CLAIMS WHICH PETITIONER STATES AND
BY SUBSTANTIAL SHOWING'S HE.. SHOWN SUBSTANTIALLY ENOUGH
SUBSTANTIAL DENIAL OF CONSTITUTIONAL RIGHT VIOLATIONS AND
ERROR'S OF HARMFUL AND FUNDAMENTAL DEGREE SUCH AS
TO MEET THE COURT GRANT OF A CERTIFICATE OF
APPEALABILITY (COA)... THE CHANCE OPPORTUNITY TO
PRESENT EACH AND ALL CLAIM'S BECAUSE FIRST IF THE FEDERAL
DISTRICT COURT DID NOT REACH THE UNDERGROUND CLAIMS OF
CONSTITUTIONAL ERROR THAT SHOULD OF BEEN ENOUGH FOR (COA)
CERTIFICATE AS SEE. 28 USCS. 2253. C. 2.)...
BUT ALSO THE SUBSTANTIAL SHOWING OF APPELLANT, PETITIONER
CLAIM'S SHOULD OF BEEN SUBSTANTIAL TO MEET THE REQUIRMENT
IN BAREFOOT V. ESTELLE 463. U.S. 880. 894. 77. L Ed. 2d. 1090
103. Sct. 3383. ALSO SEE IN WILLIAMS V. TAYLOR ANTE AT. UNDER
BAREFOOT 463 U.S. at 893. AND IN 4. PP. 6-8. } ALL PETITIONER
HAD TO SHOW IS A CONSTITUTIONAL RIGHT VIOLATION AND PETITIONER
ASK'S THIS COURT THAT WOULDNOT A VIOLATION OF DUE PROCESS
14 AMENDMENT CONSTITUTIONAL RIGHT BE SUBSTANTIALLY
ENOUGH SPECIALLY BECAUSE UNDER ANY PROCESS AND PROCEDURE
IT IS THAT EVERY INDIVIDUAL HAVE A DUE PROCESS AGAINST
ANY ACCUSED BUT ALSO THAT THE VIOLATIONS OF SUCH RIGHTS
AS A RIGHT TO JURY AND JURY VERDICT WITH A RIGHT TO A
JURY INSTRUCTION WITH THE MEANING'S TO THE FULL PROTECTION
OF THE REASONABLE DOUBT STANDARD BE THAT THEY ALSO
WERE VIOLATED AND ERRORED...

CONSTITUTE TO BE SUBSTANTIAL SHOWING ALSO SPECIALLY BE
THAT THERE WITH THE INCLUSIONS OF 5TH AND 6TH AND 14TH
CONSTITUTIONAL AMENDMENTS... WHICH ARE FUNDAMENTAL
BASIC PRINCIPLES TO ANYONE UNDER LAW AND A TRIAL OF
CONVICTION WHICH ARE STRUCTURAL... AND ARE TO PETITIONER'S
STRUCTURAL ERROR CLAIM AND "REASONABLE DOUBT STANDARD
SEEN IN WINSHIP 397. U.S. 358. 1970.)... ALSO ADDING IN ENGLE.
SUPRA. AT 131. THE DUE PROCESS PROTECTION. ALSO SEE FEDERAL
HABEAS CORPUS. PRACTICE AND PROCEDURES SECTION § 31.3 PER SE
PREJUDICIAL ERRORS ADDING SECTION § 31.3. 8. a) b.)...
NELER V. UNITED STATES SUPRA. 527. U.S. AT 8. } UNITED STATES V.
GAUDIN. 28 F.3d. 943. 951. 9TH CIR 1994.) AFF. 515. U.S. 506. 1995.)
AND SO WITH PETITION ARGUMENT AND SHOWING IT SHOULD OF
BE SUBSTANTIAL ENOUGH FOR THE COURT OF APPEALS TO GRANT
CERTIFICATE AND APPELLABILITY (COA). AND THIS CASE
THE OPPORTUNITY AND SUCH THAT NO REASONABLE RIGHT
JURIST WOULD NOT FIND APPELLANTS/PETITIONERS CLAIMS OR
SHOWING'S UNREASONABLE OR THAT THE COURT OF APPEALS AND
THE FEDERAL DISTRICT COURT WAS ERRONEOUS IN THERE DECISIONS
BUT THAT IN DEYING AND DENIAL OF CERTIFICATE OF APPEALS
(COA). AND CLAIM GRANTS OF CONSTITUTIONAL VIOLATIONS
IT WAS A NOT JUST ERRONEOUS BUT A MISCHARRINGE OF
JUSTICE IN NOT DOING SO SEE IN MURRAY V. CARRIER 1986.)
477. U.S. 478 * 106 S.Ct. 2639. } ADDING HIS/HIS "LIMITATIONS
PERIOD... ALSO.
FOR THESE REASONS ALONE THIS U.S. SUPREME HAS TO SEE THAT
1.) THE COURT APPEALS WAS ERRONEOUS IN ITS DECISIONS AND TO
IT SHOULD OF GRANTED APPEAL AND (COA). REVIEWED THE
CLAIMS BUT ALSO THAT THE FEDERAL DISTRICT COURT WAS ALSO
AND DID ERROR IN ITS RULING'S 2.) THAT THE FEDERAL COURT
SHOULD REVIEWED THE GRANTS OF CONSTITUTIONAL VIOLATIONS.

SUBSEQUENTLY FOLLOWING REASONS.

PETITIONER NOW... ARGUES WITH REGARDS TO THE ISSUES OF THE FEDERAL DISTRICT COURT WHICH THEY MADE A ERRONEOUS DECISION TO FIRST DISMISS THE PETITION BUT SECONDLY ALSO NOT REVIEW ANY OF THE VALID CLAIMS RAISED BY PETITIONER. THE COURT THEN PROCEDURALLY DEFAULTED PETITIONER CLAIMS AND PETITION STATING THAT THEY WERE PROCEDURALLY DEFAULTED BY THE STATE SUPREME COURT AND THAT BECAUSE PETITIONER HAS YET RAISED ANY ARGUED ARGUMENT OR ANY REGARDING'S TO THEM... SO THE FEDERAL COURT DISMISSED THE PETITION UNDER PURSUANTS TO THAT FACT... PETITIONER THEN AT TIME OF DECISION SUBMITTED A MOTION AN "TRAVERSE" IN REGARDS TO THE PROCEDURAL DEFAULTS THE MOTION ANSWERED THE CLAIMS AND POINTS TO WHY THEY HAD OCCURED THE STATES SUPREME COURT RAISED ISSUES WERE UNDER WAITRENS Rule(1965.) AND DIXON Rule(1953.) FOLLOWED TO THE LINDLEY Rule(1947.)... THAT WELL PETITIONER ARGUES TO "DIXON" STATING THAT HE... HAD REQUESTED HIS... COUNSELER ATTORNEY AT AND DURING HIS... FIRST Appeal ABOUT THE STATES ERRONEOUS JURY INSTRUCTION BUT HIS... Appeal Counselor STATED THAT HE... SEEN NO REASON TO BUT THAT IF I PETITIONER WANTED TO THAT I WOULD HAVE TO DO IT ON MY OWN TIME AND BY MYSELF HE ALSO STATED THAT IF I... OR I WOULD HAVE TO PUT IN FOR INEFFECTIVE ASSISTANCE OF COUNSEL... "BASICALLY BEING PREJUDICE" IN A LETTER HE RESPONDS TO ME ASKING TO RAISE SUCH ISSUE HE STATES AS I STATED HE SEES NO REASON TO BUT THEN IN ONE OF PETITIONER PETITION CASE 4:18-CV-01877-HSG DOCUMENT 57, PAGE 5, LINES 26-28. HE STATES THAT HE SAID HE DID NOT RAISE ALL MY PETITIONER'S ISSUES BECAUSE I WOULD HAVE TO DO IT MYSELF. BUT IN A LETTER RESPONDS HE STATES HE SEES NO NEED BECAUSE THERE'S NO ISSUE THERE OR REASON. AND AS TO THE LINDLEY ISSUE PETITION STATES OR PETITIONER SAID THAT ANY ERRONEOUS CONVICTION OR UNCONSTITUTIONAL ISSUES..

A MISCHARRINGE OF JUSTICE CONVICTION WOULD CONSTITUTE TO ANY INSUFFICIENTLY AND PETITIONER ARGUMENT TO THE ERRONEOUS JURY INSTRUCTION AND ERRONEOUS "REASONABLE DOUBT" STANDARD STRUCTURAL ERROR FOLLOWING THAT THERE'S MANY CASE THAT DO RAISE ISSUE TO INSUFFICIENT TO CONVICT OR TO THAT THERE'S INSUFFICIENT EVIDENCE. BECAUSE HAS BEEN IN JACKSON V. VIRGINIA 1979.) 443. U.S. *** 39]. 307. 318-319. WHICH IS A DETERMINE CLAIM OF "INSUFFICIENT EVIDENCE". THIS ARGUMENT WOULD ALSO PERTAIN TO THE NATURE OF CREDIBILITY OF WITNESS. AND THE CREDIBILITY OF THE FACT FINDINGS OF DETERMINATION OUTCOME. SEE RYLE V. KANSAS. 1942.) 317. U.S. 213. 216. ALSO ADDING SEE. NAPUE V. ILLINOIS. 1959.) 360. U.S. 264. ALSO SEE PENAL CODE SECTION 1473. C.) IN RE PRATT 112. Cal App. 3d. 795. 864. ALSO SEE IN RE WRIGHT 78. Cal App. 3d. 788. 808. AND THE MISCHARRINGE OF JUSTICE. SEE JUSTICE STEVENS post at 504. AND post at 499. ibid., WHICH SHOULD BE ENOUGH REASON IT ADDRESS THE WRONGFUL CONVICTION AND SENTENCE. AND AS TO THE WAITREUS RULE WELL ANY CONSTITUTIONAL RIGHT VIOLATION OF ERROR THAT OCCURED WOULD CONSTITUTE SUBSTANTIALLY ENOUGH AND AS TO ALL THREE AND ALL CLAIMS WOULD BE PROPER UNDER THE WAITREUS RULE.

AND ALTHOUGH THE COURT "PROCEDURAL DEFAULT" PETITIONER'S CLAIMS THE FEDERAL DISTRICT COURT SHOULDNT OF PASSED UPON ANY CONSTITUTIONAL QUESTIONS AT ISSUE AND YES.. THE COURT OF APPEAL WAS ERRONEOUS IN ITS DECISIONS TO NOT GRANT REVIEW OR DISMISS.. EVEN NOT GRANT THE RAISED ISSUE OF THE VIOLATION OF DUE PROCESS VIOLATION OF ERRONEOUS ADMISSION OF UNCHARGED PRIOR ACT IN ITS EVIDENCE OF ROBBERY".

PETITIONER CONTINUES WITH THE ISSUE ABOUT FILING TIMELY, THE COURT DID NOT ADDRESS AND STATED NOTHING TO THAT BUT THE RESPONDENT DID WHEN FILING TO DISMISS PETITION BUT AFTER PETITIONER SUBMITTED A MOTION AND STATEMENT ADDRESSING IT STATING THAT I, PETITIONER HAVE BEEN PURSUING MY RIGHTS DILIGENTLY NON STOPPING ALTHOUGH I, PETITIONER HAD JUST AS IT OF ISSUES I, PETITIONER HAVE BEEN NON STOP IN AND THROUGH COURT PROCESS AND PROCEDURES AS STATED THE FEDERAL COURT FINDS OR FOUND NO ISSUES ON THAT IN PART BUT JUST SO THIS COURT IS WELL AWARE OF THAT BUT JUST KNOW I MR. CISNEROS. HAVE BEEN DOING TO MY PETITIONER BEST DILIGENTLY TO THE LAW ALTHOUGH PETITIONER HAS MANY DIFFICULTIES AND MANY DISABILITIES HANDSHIP I BEEN DOING EVERY THING I CAN POSSIBLY CAN TO GET THIS US SUPREME COURT AND IT'S GREAT JUDGE TO GIVE ME AND MY CASE THE OPPORTUNITY CHANCE TO GET REVIEW NOT JUST REVIEWED BUT GET A OR GET RESOLVED WITH IT CONFLICTS AND UNCONSTITUTIONAL ERRORS AND VIOLATIONS OF SUCH MISCARRIAGE OF JUSTICE SO PLEASE TAKE THIS IN AND ALL THAT THIS CASE HAS BUT JUST KNOW I PETITIONER TRYS TO MY BEST TO SEEK YOUR FAVOR I BEEN DILIGENTLY BEEN PURSUING MY RIGHTS SEE. SMITH. V. DAVIS. 740 FED APPX 131. 9TH CIR 2018.)... AND DURING ALL MY PETITIONER PROCESS AND PROCESS PROCEDURES WOULD GIVE PETITIONER SOME TOLLING TIME BUT ALSO KEEP IN MIND THIS CASE IS ONE OUT OF MANY WITH BEING A EXTRAORDINARY CASE OF UNCONSTITUTIONAL MISCARRIAGE OF JUSTICE. SEE WATKINS. RULE 1.) FUNDAMENTAL CONSTITUTIONAL ERROR. HARRIS. SUPRA. 5. CAL. 4TH AT PP. 829. 836. ALSO SEE. IN RE CLARK. 1993.) 5. CAL 4TH. 750. 797 - 798.1. ADDING SEE MCQUIGGIN V. PERKINS. 569. U.S. 383. 391-93. 2013.)

BECAUSE WOULD WE NOT, THINK OR VIEW A VIOLATION OF DUE PROCESS CONSTITUTIONAL... IS THE 14. AMENDMENT NOT THE DUE PROCESS CHISE AND AS THE COURT OF APPEALS AND THE FEDERAL DISTRICT COURT STATED THAT PETITIONER. CISNEROS. ONLY RAISED GROUNDS OF STATE LAW IN THE COURT OF APPEALS AND NOT FEDERAL LAW TO CLAIM OF PURSUANT TO EVID CODE'S 1101. b.) ADMISSION OF UNCHARGED PRIOR ACT IN ITS EVIDENCE UNDER STATE LAW AND UNDER THAT THE TRIAL COURT JUDGE WAS PREJUDICE AND OR A ABUSE OF DISCRETION B, ITS WEIGHING. BUT AS PETITIONER STATES. EVID CODE'S 352.) . b.) IS OF UNQUE PREJUDICE AND UNDER UNQUE PREJUDICE CONSTITUTE'S CONSTITUTIONAL LAW AND ALSO THE ADDRESSING OF VIOLATION OF DUE PROCESS THAT THEY BOTH ARE DEGREES OF CONSTITUTIONAL DEMONOR SO IT WOULD BE AN CONSTITUTIONALLY BE FEDERAL LAW RIGHT. SO THE POINT OF THE COURT BEING ERRONEOUS IN ITS DECISION WAS WRONG IN IT AND ITS DISMISSING FOR THESE REAS REASONS ALONE AND THAT REGARDLESS OF PROCEDURAL DEFAULT IT SHOULD & STILL REVIEWED CLAIMS COMPELLING THE VIOLATIONS OF CONSTITUTIONS AN FUNDAMENTAL UNFAIRNESS WHICH THE INNOCENCE OF ONE IS IN CONCERN. SEE STRICKLAND V. WASHINGTON 466. U.S. 668. 697. 1984.) . . ALSO SEE ROSE V. LUNDY. 455. U.S. 509. 543-544. 1982.) . . ADDING SEE 28. U.S.C § 2243. IT IS CLEAR THAT ANY APPELLANT OR PETITIONER HABEAS CORPUS REVIEW SHOULD NOT BE FORECLOSE FOR REVIEW OF A MERITORIOUS OR ANY CONSTITUTIONAL CLAIM THAT MAY ESTABLISH ANY PRISONER'S INNOCENCE . .

BRIEFLY WANT TO SHINELIGHT ON A IMPORTANT FACT THAT THE FIRST APPEAL COURT "ARGUED", TO APPELLANT & PETITIONER'S. GROUND CLAIM STATING THAT INCIDENTS WERE DIFFERENT BETWEEN BOTH SO IT WAS ERRONEOUS IN ITS DECISION ON APPEAL .

CONCLUSION

The petition for a writ of certiorari should be granted.

AND THE JUDGMENT AND CONVICTION SHOULD BE REVERSED..

Respectfully submitted,

MIGUEL ANGEL CISNEROS.

Date: May 28, 2023



APPENDIX I