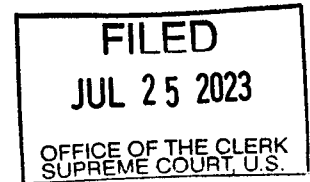


23-5789

ORIGINAL

No. _____



IN THE

SUPREME COURT OF THE UNITED STATES

JEANMAX DARBOUZE

— PETITIONER

(Your Name)

vs.

PATRICK COVELLO (WARDEN)

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE SUPREME COURT OF THE UNITED STATES OF AMERICA

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

JEANMAX DARBOUZE

(Your Name)

MCSP P.O. BOX 409060

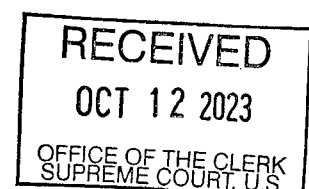
(Address)

IONE, CA. 95640

(City, State, Zip Code)

N/A

(Phone Number)



QUESTION(S) PRESENTED

1. During trial, it was elicited on cross-examination, that the victim told the investigator she never had sexual contact with Petitioner, and that her mother had told her to lie.

These statements entitled the prosecution to introduce CSAAS testimony. Is the introduction of CSAAS testimony a legitimate avenue that is appropriate for the court-room or is it unconstitutional junk science as multiple courts have ruled?

2. During trial, the prosecution presented evidence of a jail recorded phone call. The prosecution also supplied a transcript of the translated conversation to the jury, as the translation was necessary because the conversation that was recorded, was not spoken in English.

This translation was not verified by a legitimate court translator, and the translation was inaccurate, as it can be seen by the verified translation provided by Petitioner, after trial on Habeas Corpus.

Is it unconstitutional to allow a translated transcript to be given to the jury that has not been verified by a legitimate court translator?

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:

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	
STATEMENT OF THE CASE	
REASONS FOR GRANTING THE WRIT	
CONCLUSION	

INDEX TO APPENDICES

APPENDIX A
Second Appellate District In The Court of Appeals of The State of California

APPENDIX B
Superior Court of California, In And For The County of Los Angeles

APPENDIX C
The Supreme Court of The State of California

APPENDIX D
The United States Court of Appeals For The Ninth Circuit of California

APPENDIX E
The United States District Court, For The Central District of California

APPENDIX F

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Brady v. Maryland (1963) 373 U.S. 83 at 87	
People v. Shirley (1982) 31 C.3d 18, 51-54	
State v. J.L.G. 234 N.J. 265	
Commonwealth v. Dunkle 529 P.A. 168, 181-182 (1992)	
Blount v. Commonwealth 392 S.W. 3d 393, 396 (2013)	
State v. Davis (1989) 64 Ohio App.3d 334, 342 [581 N.E. 2d 604, 609]	
People v. Bothuel (1988) 205 Cal.App.3d 581, 587	

STATUTES AND RULES

OTHER

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

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

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix D to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix C to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

1.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 05-26-2023.

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

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

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

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

☒ For cases from **state courts**:

The date on which the highest state court decided my case was 04-01-2020.
A copy of that decision appears at Appendix C.

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

☒ An extension of time to file the petition for a writ of certiorari was granted to and including 09-31-2023 (date) on 07-31-2023 (date) in Application No. US A P9 22-55 298

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The right of a state prisoner to seek Federal Habeas Corpus relief is guaranteed under 28 USC §2254.

The standard for relief under the "AEDPA" is in 28 USC §2254(d)(1).

STATEMENT OF THE CASE

This case is directly involved around the events of January 22, 2015, where Petitioner is charged with crimes of physical and sexual abuse of his daughter, "J.D.".

During trial, the victim gave testimony that "she never had sexual contact with Petitioner, and also that her mother told her to lie."

The prosecution was then allowed to introduce CSAAS evidence through the expert testimony of Developmental Psychologist SUSAN HARDIE, an expert on CSAAS.

Also during this trial, the prosecution played a recording of taped conversation made from a phone call between Petitioner and Petitioner's Sister and Cousin. The entire conversation was spoken in Creole French.

A translation from Creole French to English was provided for the jury, but there was not a Certified Translator present at the time that the translated conversation was being given to the jury.

Petitioner was adamant and was insistant to the fact that these translations were inaccurate, and even though these translations were offered into evidence, and then listened to by the jury members, these translations were never verified to be accurate by a Certified Translator during trial and thus, were allowed to be given to the jury.

The unverified translations, claim that Petitioner has admitted to his Sister and Cousin, the charges brought against him by the prosecution in this case, but this is Not True.

Petitioner was then convicted of all counts, based entirely on the mis-translated and unverified conversation that occured over the jail phone during a conversation with Petitioner's family members.

REASONS FOR GRANTING THE PETITION

This Petition should be GRANTED for 3 main reasons:

- 1) This issue has not previously been ruled upon by this Court;
- 2) This issue has a widespread effect upon cases throughout the entire nation;
- 3) This issue is highly debated throughout the States and is long overdue for a ruling from this Court.

Question 1:

Since it was published in 1983, CSAAS has been a controversial topic in court-rooms across the nation, and used improperly as evidence to convict countless people of crimes. The Supreme Courts of multiple states, including, but not limited to, New Jersey, Ohio, Pennsylvania, and Kentucky have completely banished CSAAS from their court-rooms after doing extensive reviews of CSAAS as a whole and found it lacking.

CSAAS is disregarded by the scientific community at large as a pseudo-science at best, and most commonly called a "junk science." The Kentucky Supreme Court found that "We have been shown no academic or scientific studies, or any other evidence, to indicate that the concept of CSAAS has attained the kind of validity that would enable one to accurately identify victims of sexual abuse." (See Blount v. Commonwealth 392 S.W. 3d 393, 396 (2013)).

The New Jersey Supreme Court found that "Based on the record before the Court, we conclude that CSAAS does not satisfy a basic standard of admissibility--reliability--because it is not generally accepted by the scientific community. Expert testimony about CSAAS therefore may no longer be presented to juries." (See State v. J.L.G. (2018) 234 N.J. 25, 308 [190 A.3d 442]). CSAAS, as these Courts have properly identified, does not use any sense of scientific method or process, it is not a diagnostic tool, and even assumes the person has in fact been abused when applying any of the 5 prongs associated with CSAAS. An Ohio Court found that "In effect, CSAAS does not diagnose or detect sexual abuse, but instead, assumes the presence of such abuse and seeks to explain the child's reaction to it. Therefore, the term, "syndrome" is a misnomer since symptoms or traits cannot by themselves be used as a test for sexual abuse, for the single reason that CSAAS is not probative of sexual abuse." (See State v. Davis (1989) 64 Ohio App.3d 334, 342 [581 N.E. 2d 604, 609]).

Despite these findings, some states continue to allow Expert Testimony for CSAAS for the purpose of "reestablishing credibility of a witness" after the person accused of lying by the defendant, or if the supposed victim recants their accusations, and a slew of

other methods introducing a CSAAS expert. In fact, according to CSAAS, the only time a person is not lying, is when they are reporting abuse, (as) all other scenarios are explained away as "signs of someone who has been abused", including saying nothing happened, or that they were told to lie. This type of testimony is incredibly dangerous specifically because of the weight juries put on expert testimony. A California Court found that "Expansive 'education' testimony on CSAAS by a psychology professional-even if reference to the specific victim is avoided-has the potential of being used by an untrained jury as a construct within which to pigeonhole the facts of the case and draw the conclusion that the child must have been molested." (See People v. Bothuel (1988) 205 Cal.App.3d 581, 587).

In Pennsylvania, a Court held that "Permitting an expert to testify about an unsupportable behavior profile and then introducing testimony to show that the witness acted in conformance with such a profile is an erroneous method of obtaining a conviction." (See Commonwealth v. Dunkle 529 P.A. 168, 181-182 (1992)).

When expert testimony is given on CSAAS, the jury is now in danger of inappropriately applying these "symptoms of a person who is already known to have been abused," to a person who the jury is supposed to be deciding if the abuse actually occurred or not.

This essentially robs the jury of their fact finding responsibility. It allows the jury to draw conclusions from a possible displayed behavior and saying that behavior matches the behavior of someone who has been abused, (so) therefore the abuse must have happened. This is not justice. To allow this type of conviction process in our court-rooms will most assuredly lead to innocent people being convicted of crimes, or even taking a plea bargain because they fear the literal death trap that awaits them in the trial process in the form of a lengthy sentence delivered by an assured victory from the hands of CSAAS.

The Child Sexual Abuse Accommodation Syndrome (CSAAS) has no place in any court-room. It is not a science and not supported by the scientific community, and therefore should not be allowed as expert testimony. CSAAS has been ruled on by multiple state supreme courts that it does not belong in the court-room. It has not been ruled on by the United States Supreme Court. CSAAS is used in thousands of trials every year and will have a widespread effect when it is banned. CSAAS should be banned in all forms and uses from all court-rooms in all states.

Question 2:

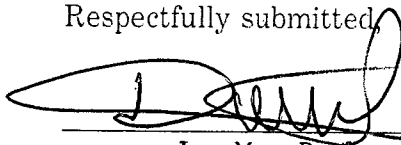
To blatantly alter a transcription of a phone call, and then provide that altered version to the jury in the form of a written transcription, is immoral, unconstitutional, and is a violation of the Brady Rule. Any transcription from a foreign language should have a mandatory requirement that a Certified Court Translator be present and to inspect the translation to verify it's legitimacy. By not doing so, the Defendant's rights were violated under the Due Process Clause of the U.S. Constitution.

This Court should rule that Certified Translator needs to be present for all translations, in the interests of justice.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



JeanMax Darbouze

Date: 9/03/23