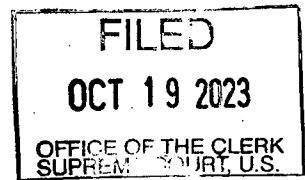


No. 23-6605

ORIGINAL



IN THE

SUPREME COURT OF THE UNITED STATES

Darius De'mon Lake

(Your Name)

— PETITIONER

vs.

— RESPONDENT(S)

Extraordinary Writ of Habeas Corpus

~~ON PETITION FOR WRIT OF CERTIORARI TO~~

THE SUPREME COURT OF THE STATE OF CALIFORNIA

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

PETITION FOR WRIT OF CERTIORARI

Darius De'mon Lake

(Your Name)

P.O. Box 213040

(Address)

Stockton, CA, 95213

(City, State, Zip Code)

N/A

(Phone Number)

QUESTION(S) PRESENTED

- 1) On January 1, 2022 §1385(B) came into effect. I was given 3 strikes under a single case number, don't I apply?
- 2) I was given 5 life sentences for penal code 211 robbery without a weapon is this considered fair?
- 3) I was not given a fair trial by jury of my peers as an African American man because the District Attorney in my controlling case struck the only black juror whose background fit perfectly. Is her actions fair for I should be granted a fair trial of my race?
- 4) I was granted mental health diversion, but when asked to appear I said yes and my trial judge made a judgement without me, the district attorney, nor my trial attorney denying my motion for mental health diversion by himself. On appeal I was granted the opportunity as we filed against the judge of my trial but now I am going against him again as my case was overturn. Isn't going in front of my trial judge again bias?
- 5) Do I apply for "Racial Justice Act"?



1-1-24

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:

RELATED CASES

Cal. Supreme Court Case No. S274843
Court of Appeal Case Number D078734
San Diego County Superior Court Case No. SCD274161

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

APPENDIX B

APPENDIX C

APPENDIX D

APPENDIX E

APPENDIX F

DARIUS DE'MON LAKE #BG6697

California Health Care Facility

P.O. Box 213040

STOCKTON, CA 95213

SUPREME COURT OF THE UNITED STATES

1 First St. NE

WASHINGTON, DC 20543

DARIUS DE'MON LAKE,

Petitioner,

vs.

No.

Extraordinary Writ OF
Habeas Corpus

U.S. SUPREME COURT

Respondent

Petitioner, a prisoner proceeding pro se, brings this extraordinary writ of habeas corpus making application in aid of the Court's jurisdiction for the Court to exercise discretionary powers to strike the strikes in my case Number S274843 that was denied in the Supreme Court of California on July 20, 2022.

Under penal code §1385(B) cases with 3 strikes under a single case should be overturned. My case was open on appeal when this Senate Bill was granted, but I was denied by the lower court because I was sentenced June 15, 2018 by the trial court. I feel it is unfair cause not only was my Batson v. Wheeler Motion denied, but my appeal was not final. Also People v. Hernandez (Call App. 6th Dis. Mar. 28, 2017) 215 Cal. Rptr. 3d. 880, 10 Cal. App. 5th 192, 2017 Cal. App. LEXIS 277 states robbery is not a conviction of life in prison. Also "R.J. Act."

Date: Nov. 13, 2023

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

People v. Hernandez (Cal App. 6th Dis. March 28, 2017) 215
Cal Rptr. 3d 880, 10 Cal. App. 5th 192, 2017 Cal. App. LEXIS 277
Penal code § 1385(B)

pg A-1
pg A-1

STATUTES AND RULES

Fourteenth Amendment
Eighth Amendment
Fourth Amendment
Deliberate Indifference

pg A-1

OTHER

Extraordinary Writ of Habeas Corpus

Petitioner respectfully prays that ~~the court~~ ^{extraordinary writ of Habeas Corpus} 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 7-20-22; 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 B to the petition and is

[x] reported at 7-20-22; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

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

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

☒ 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 7-20-22.
A copy of that decision appears at Appendix B.

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

☐ 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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

14th Amendment to the U.S. Constitution

8th Amendment

4th Amendment

"Deliberate Indifference"

STATEMENT OF THE CASE

I was sentenced to 150 years to life for a spree of 8 banks unarmed robberies from 10-5-17 to ten twenty seven, two thousand seventeen. I lost at trial but was given the 5-year enhancement law making my new sentence 125 years to life on appeal. I was denied penal code § 1385 (B). I was granted "the mental health diversion" for relief in 2024 March. I am requesting the relief under Racial Justice Act (R.J.A.) came into effect Jan. 1, 2024. This ~~case~~^{petition} is requested under "extraordinary writ of habeas corpus."

Also I filed the Batson v. Wheeler motion that was also denied on ~~and~~ appeal

REASONS FOR GRANTING THE PETITION

The district court has no jurisdiction to grant a new trial under the circumstances of this case. Plaintiff has exhausted all state remedies. Also requesting "Racial Justice Act" for relief. My First, Fourth, and Eighth Amendment rights have been violated as well deliberate indifference. I was not treated fairly during my trial nor my African American juror during voir dire. These are reasons my petition should be granted. I also filed a motion to have my resentencing heard by a different Judge other than my trial judge who clearly held bias opinions and judgement during my trial and case. Laws have been passed for cases like mine but in the district court I am being treated unfairly and with bias judgment, because of my case and ethnicity. Please hear and grant my petition.

Da L 7-1-24

CONCLUSION

extraordinary writ of Habeas Corpus
The petition ~~for a writ of Habeas Corpus~~ should be granted.

Respectfully submitted,

Darius Lake / 

Date: 01-03-24