

No. 23-7241

ORIGINAL

IN THE  
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.  
FILED

APR - 3 2024

OFFICE OF THE CLERK

MICHAEL ALLEN — PETITIONER  
(Your Name)

vs.

RAYMOND MADDEN, Warden — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals For The Ninth Circuit

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

PETITION FOR WRIT OF CERTIORARI

MICHAEL ALLEN-H42389

(Your Name)

P.O.B.-901-A1-211

(Address)

Imperial, Calif. 92251

(City, State, Zip Code)

N/A

(Phone Number)

## QUESTION(S) PRESENTED

(1) Does California Penal Code Section 117.95(a)(1)-(3) statute violates The United States Constitution 14th Amendment Equal Protection of the Law by not including ameliorate relief for principals and major participants who did not have mens rea as the law applies to Aider and Abetter who did not have mens rea. For mens rea is the state of mind the prosecution must prove to secure a conviction.

(2) Does The United States Constitution 14th Amendment Equal Protection of the Law require Principals and Major Participants who did not have Mens Rea to be included in California Penal Code Section 1170.95(a)(1)-(3) with Aider and Abetters who did not have mens rea. For no state shall deny to any person within its jurisdiction the Equal Protection of the Laws.



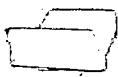
## **LIST OF PARTIES**

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**

NONE



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In California the legislature intent is that a persons capability for murder be premised upon that persons own action and subjective to mens rea. People v. Martinez, (2019) 31 Cal. App. 5th 719,723, incorporated in penal code section 1170.95(a)(1)-(3). 5

The basic command of Equal Protection is that justice be applied equally to all parties. Schilb v. Kuebel, (1971) 404 U.S. 357, 30 Led 2d 502.

## STATUTES AND RULES

The court shall entertain an application for Writ of Habeas Corpus on behalf of a person in custody pursuant to judgment of state courts on grounds that petitioner is in custody in violation of United States Constitution. 28 U.S.C. § 2254(a). 5

Petitioner is in custody in violation of The United States Constitution Equal Protection of the laws to California Penal Code Section 1170.95(a)(1)-(5)

No state shall deny to any person within its jurisdiction The Equal Protection of the Laws. 14th Amendment, Const. Equal Protection of the law. 5

## OTHER

Equal Protection guarantee and protects not only groups but individual who constitute a class of one. Squaw Valley Development Co. v. Goldberg, (9th Cir 2004) 375 f.3d 936. 5

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 \_\_\_\_\_; 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 D 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

reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

The opinion of the Calif. Court of Appeal, Second Appellate court appears at Appendix H 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 March 26, 2024.

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 March 11, 2020. 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 \_\_\_\_\_.

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**

United States Constitution Equal Protection " Nor shall any state deny to any person within its jurisdiction The Equal Protection of the laws to California Penal Code Section 1170.95(a)(1)-(3).

## STATEMENT OF THE CASE

(1) On June 28, 2019, petitioner had a resentencing hearing [redacted] pursuant to new legislation in California Penal Code Section 1170.95 (a)(1)-(3). Appendix # D, Page 7-17, which the court stated " If these are the facts of the case I don't see how he would be entitled to relief under 188 or 189 of the penal code. There is no argument that he didn't act with malice and under felony murder rule which would be the carjack he's the actual killer.

(2) Petitioner argument and evidence presented was new and additional evidence under penal code section 1170.95(d)(3) that petitioner did not have mens rea supported by medical expert Dr. Nina T. Rodd, Ph.d and Medical Expert Dr. Janci C. Lindsay that petitioner did not have Mens Rea. Appendix # F pages 20-23. APPENDIX G.

(3) Petitioner alleged no one in the State of California can be convicted of a crime absent Mens Rea.

(4) Petitioner met all criteria under penal code section 1170.95(a)(1)(3) as follows (1) a complaint was file against petitioner; (2) The petitioner was convicted of 1st degree murder and (3) petitioner could not now be convicted of 1st degree murder because of the changes to penal code section 188 and 189 effective January 1, 2019. Appendix D pages 7-17.

(5) The California courts can not deny or exclude any person within their jurisdiction Equal Protection of the Law to penal code section 1170.95(a)(1)-(3). For if the principal did not have mens rea and the Aider and Abetters did not have mens rea and can no longer be convicted of 1st degree murder and met all criteria under penal code section 1170.95(a)(1)-(3) the courts can not discriminate for in California absent Mens Rea no one can be prosecuted for a crime.

(6) Petitioner should have been eligible for penal code section 1170.95(a) for petitioner did not have mens rea like a aider and abetter.

## REASONS FOR GRANTING THE PETITION

United States Supreme Court is the law of the land and No state shall deny to any person within its jurisdiction the Equal Protection of the law to penal Code section 1170.95(a)(1)-(3) for it violates the 14th Amendment to The United States Constitution.

United States Supreme Court is requested to question is there a difference in principal without Mens Rea and Aider and Abetter without Mens rea for both can not be prosecuted absent mens rea and is California penal code 1170.95(a),violating the Equal Protection by not including relief for principals without mens rea as the do aider and abettors without mens era.

## **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 4/4/2024