

23-7540

No. S281942

FILED

MAY 07 2024

OFFICE OF THE CLERK  
SUPREME COURT OF THE UNITED STATES

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

WASHINGTON D.C.

OSCAR CATALAN Ruiz — PETITIONER  
(Your Name)

JUSTICE 1: DETJEN, JENNIFER R.S. VS.  
JUSTICE 2: SMITH, M. BRUCE  
JUSTICE 3: MEEHAN, KATHLEEN A. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

FIFTH DISTRICT COURT OF APPEALS

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

PETITION FOR WRIT OF CERTIORARI

OSCAR CATALAN Ruiz  
(Your Name)

CSF-CORCORAN 3A08-124  
(Address)

CORCORAN, CA 93212  
(City, State, Zip Code)

(Phone Number)

## QUESTION(S) PRESENTED

- (1) THE ESSENTIAL GUILT OF RAPE CONSIST IN THE OUTRAGE TO THE PERSON AND FEELINGS OF THE VICTIM OF RAPE ANY SEXUAL PENETRATION HOWEVER SLIGHT IS SUFFICIENT TO COMPLETE THE CRIME. (PENAL CODE 263. PENETRATION) WHY DIDN'T KINGS COUNTY SHERIFF'S DEPT., D.A. OFFICE, AND ALL PARTIES IN THE ARREST STAGE, DID NOT TAKE ALLEGED VICTIM FOR RAPE KIT ACCORDING TO THE VICTIM'S BILL OF RIGHTS AND AS PROTOCOL PROCEDURE PENAL CODES?
- (2) WHY DIDN'T THE VICTIM AND VICTIM'S GRANDMOTHER, GET INVESTIGATED THOROUGHLY DUE TO THE ALLEGATIONS BROUGHT AGAINST ME, AND TO INVESTIGATE THEIR MOTIVES FOR OBTAINING A U-VISA?
- (3) WHY WAS THE IMMIGRATION LAW EXPERT EXPELLED, BLOCKED FROM TESTIFYING ON MY BEHALF, WHEN SHE COULD PROVE VICTIM AND GRANDMOTHER FABRICATED ALLEGATIONS TO OBTAIN U-VISA BENEFITS IN THE U.S.?
- (4) WHY DID THE D.A. USE A SYSTEMIC PATTERN TIMELINE 6-1-2017, 7-1-2017, 7-1-2016, AND THAT THE CHARGE OFFENCE WAS ALLEGEDLY COMMITTED ON THE FIRST OF THE MONTH EVERY 30 DAYS, THEN 3 MONTHS LATER?
- (5) ON 8-22-2023 WHY WAS DEFENDANT'S SENTENCE IS VACATED, THE MATTER IS REMANDED FOR RESENTENCING FOR THE TRIAL COURT TO DESIGNATE COUNT 1 AS THE PRINCIPAL TERM, AND TO ADD THE FULL TERM AND CONSECUTIVE SENTENCES FOR COUNT 2 THROUGH 5 SEPARATELY, IN ALL OTHER RESPECTS, THE JUDGMENT IS AFFIRMED.  
WHAT PART OF SENTENCE WAS VACATED?  
MY ABSTRACT LEGAL STATUS SUMMARY ONLY SHOWS 4 COUNTS?
- (6) WHY WAS NOT MY SENTENCING CHANGED WHEN THE COURT OF APPEALS ACKNOWLEDGES THAT IT WAS POORLY POSED?

## 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:

JUSTICE 1: DETJEN, JENNIFER R.S.

JUSTICE 2: SMITH, M. BRUCE

JUSTICE 3: MEEHAN, KATHLEEN A.

## CALIFORNIA PENAL CODES RELATED CASES

11171. MEDICAL FORENSIC FORMS, INSTRUCTIONS  
AND EXAMINATIONS PROTOCOL FOR VICTIMS  
OF CHILD ABUSE OR NEGLECT.

13823.11 MINIMUM STANDARDS FOR EXAMINATION  
AND TREATMENT FOR SEXUAL ASSAULT VICTIMS  
COLLECTION AND PRESERVATION OF EVIDENCE.

13823.12 EFFECT OF FAILURE TO COMPLY ON  
ADMISSIBILITY OR WEIGHT OF EVIDENCE.

13823.9 HOSPITAL COMPLIANCE WITH STANDARDS  
PROTOCOL AND GUIDELINES FOR EXAMINATIONS  
OF SEXUAL ASSAULT VICTIMS.

## 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 - PETITION FOR REVIEW - 26 PAGES.

APPENDIX B - RETURN ON REMITTITUR - 8 PAGES.

APPENDIX C

APPENDIX D

APPENDIX E

APPENDIX F

## TABLE OF AUTHORITIES CITED

| CASES  | PAGE NUMBER |
|--|-------------|
| IN re JONES (1996) 13 CAL. 4TH 582                         |             |
| IN re SIXTO (1989) 48 CAL. 3d 1247                         |             |
| PEOPLE V. ADOX (1988) 47 CAL. 3d 207                       |             |
| PEOPLE V. AMEZCUA AND FLORES (2019) 6 CAL. 5TH 886         |             |
| PEOPLE V. BURELL-HART (1987) 192 CA. APP. 3d. 598          |             |
| PEOPLE V. CASH (2008) 28 CAL. 4TH 703                      |             |
| PEOPLE V. EVANS (1952) 39 CAL. 2d 842                      |             |
| PEOPLE V. KIRKES (1952) 39 CAL. 2d 719                     |             |
| PEOPLE V. LEWIS (1990) 50 CAL. 3d 262                      |             |
| PEOPLE V. RODRIGUEZ (1994) 8 CAL. 4TH 1060                 |             |
| PEOPLE V. WAGNER (1975) 13 CAL. 3d 612                     |             |
| PEOPLE V. Woods (2006) 146 CAL. APP. 4TH 106               |             |
| ROMEO-PEREZ V. COMMONWEALTH (Ky. App. 2016) 492 S.W.3d 902 |             |

### STATUTES AND RULES

|                |      |
|----------------|------|
| EVIDENCE CODES | 352  |
| PENAL CODE     | 261  |
|                | 269  |
|                | 288  |
|                | 1170 |

|                |            |
|----------------|------------|
| RULES OF COURT | RULE B.200 |
|                | RULE B.500 |
|                | RULE 8 508 |

8 C.F.R. 214.14

### 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 \_\_\_\_\_ 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 \_\_\_\_\_ 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.

## 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 \_\_\_\_\_.  
S

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 Nov. 1, 2023.  
A copy of that decision appears at Appendix \_\_\_\_\_.

[ ] 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 April 25, 2024 (date) in Application No. \_\_\_ A \_\_\_\_\_.  
A

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

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. CONST., 6TH AMEND

U.S. CONST., 14TH AMEND

EVIDENCE CODE 352

PENAL CODE 261  
269  
288  
1170

## STATEMENT OF THE CASE

THE DISTRICT ATTORNEY OF KINGS COUNTY FILED A FIFTH AMENDED INFORMATION CHARGING APPELLANT WITH ONE COUNT OF LEWD ACTS ON A CHILD IN VIOLATION OF PENAL CODE SECTION 288, SUBDIVISION (a) (COUNT 1), ONE COUNT OF FORCIBLE LEWD ACTS IN A CHILD IN VIOLATION OF SECTION 288 SUBDIVISION (b) (COUNT 2), AND THREE COUNTS OF RAPE OF A CHILD IN VIOLATION OF SECTION 261, SUBDIVISION (a) AND 269 SUBDIVISION (a) (COUNTS 3 & 4 AND 5). (5CT 1320-1324.)

ON MARCH 16, 2022, THE JURY FOUND APPELLANT GUILTY AS CHARGED. (5CT 1392-1396.) ON APRIL 20, 2022, THE COURT SENTENCED APPELLANT TO AN INDETERMINATE TERM OF 45 YEARS TO LIFE, CONSISTING OF CONSECUTIVE 15-YEARS TO LIFE TERMS FOR THE CONVICTIONS UNDER COUNTS 3, 4 AND 5. THE COURT IMPOSED ALSO A CONSECUTIVE DETERMINATE TERM OF 14 YEARS IN PRISON. THIS CONSISTED OF THE MIDDLE TERM OF EIGHT YEARS FOR THE FORCIBLE LEWD ACTS CONVICTION UNDER COUNT 2 PLUS A FULL CONSECUTIVE MIDDLE TERM OF SIX YEARS FOR THE LEWD ACTS CONVICTION UNDER COUNT 1. (6CT 1510, 1512, 2IRT 2826-2828.)

APPELLANT APPEALED. IN AN UNPUBLISHED OPINION FILED AUGUST 22, 2023, THE COURT OF APPEALS AFFIRMED THE JUDGMENT OF CONVICTION, BUT REMANDED THE MATTER FOR A FULL RESENTENCING HEARING. APPELLANT DID NOT SEEK REHEARING.

## REASONS FOR GRANTING THE PETITION

REVIEW SHOULD BE GRANTED ON THIS ISSUE  
AND APPELLANT'S CONVICTIONS SHOULD BE ULTIMATELY  
BE REVERSED.

CLEARLY DUE TO ME BEING A NON-CITIZEN OF THE  
U.S. MY CONSTITUTIONAL RIGHTS WERE GROSSLY VIOLATED  
AND THE LOWER COURT KING'S COUNTY SUPERIOR COURT  
BLOCK MY DUE PROCESS THROUGHOUT THE COURT PROCEEDINGS  
OF THESE ALLEGED CHARGES WITH SYSTEMIC PREJUDICE.  
EVERYTHING IS CLEAR THAT IT FAVORED THE D.A'S OFFICE  
FOR A WRONGFUL CONVICTION, NOT ALLOWING IMMIGRATION  
LAW EXPERT, PROTOCOL PROCEDURES OF RAPE CASES.  
VICTIMS ARE TO BE TAKEN TO A HOSPITAL CONTRACTED  
WITH POLICE DEPARTMENTS, BUT WAS NEVER DONE.  
KING'S COUNTY SUPERIOR COURT HAS A HISTORY OF ABUSE  
OF DISCRETION AND MISCARRIAGE OF JUSTICE IN SEX  
CRIMES AND HOW THEY ARE MANIPULATING CHARGES AND  
CASES TWISTING THE THEORY.

## **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Oscar Thurgood

Date: May 7, 2024