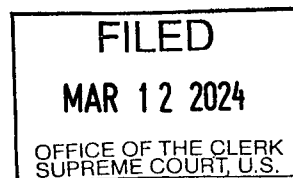


No. 23-7820



IN THE
SUPREME COURT OF THE UNITED STATES

SAMUEL WINDHAM, JR. — PETITIONER
(Your Name)

vs.

CALIFORNIA SUPREME COURT — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

CALIFORNIA COURT OF APPEAL SIXTH APPELLATE DISTRICT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

SAMUEL WINDHAM, JR.
(Your Name)

P.O. Box 2500 CMF
(Address)

VACAVILLE, CA 95696-2500
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

WHEN THIS CRIMINAL APPELLANT UNDER CAL. S.B. 1437, P.C. 1170.95 CURRENTLY 1172.6 RE-SENTENCING WAS FOUND ELIGIBLE AND THE HEARING COURT PROCEEDINGS OF MAY 10, 2019 THRU AUGUST 21, 2019 THAT WERE ORDERED BY MONTEREY CALIFORNIA SUPERIOR COURT JUDGE MARK E. HOOD, CASE # MCR 4493 WITH COURT REPORTER JEANNETTE JESSUP CSR # 8573, AND COURTROOM CLERK ANONA SAMS, DEPT. 6 IN THE MONTEREY, CA. SALINAS DIVISION. THIS APPELLANT U.S. AND CALIFORNIA'S "DUE PROCESS RIGHT" WAS CLEARLY VIOLATED WHEN APPELLANT WAS "DENIED" HIS PRESENCE WITH COUNSEL AT THE HEARINGS NUMEROUS CRIMINAL CASES, VIOLATION U.S. CONSTITUTION, FOURTEENTH AMENDMENT, CAL. CONSTITUTION ART. I DUE PROCESS. APPELLANT'S "DENIED" PRESENCE AT HEARING WITH NO KNOWLEDGE OF A APPOINTED COUNSEL WHICH WAS NOT HARMLESS BECAUSE IT IN FACT CLEARLY ALLOWED THE HEARING COURT, PROSECUTING ATTORNEY AND DEFENSE TO DISREGARD AND SUPPRESS TRIAL CLEAR EXCULPATORY EVIDENCE OF CO-DEFENDANT CONFESSION AND OFFICIAL FIRE MARSHALL REPORT OF ACCIDENTAL FIRE IGNITION APRIL 3, 1985 C.T. PAGE 366. APPENDIX B, APPENDIX A FACT. NO WAIVER OR COMMUNICATED WAIVER FROM APPELLANT TO WAIVE HIS PRESENCE. THE COURT BY CONSTITUTIONAL RIGHT SHOULD HAVE ORDERED MY PRESENCE TO DEFEND MY BURDEN OF PROOF, RESULTING IN PETITION BEING DENIED. MANY CALIFORNIA PETITIONERS ARE BEING DENIED BECAUSE OF THESE CALIFORNIA STATE COURT DUE PROCESS VIOLATIONS WHICH ITS COURTS ARE IN FACT ALLOWING. ALL PRIOR OPINIONS SUBMITTED BY STATE OF CALIFORNIA SIXTH APPELLATE DISTRICT DID NOT STATE OR ADDRESS CO-DEFENDANT R.J. ANDERSON CONFESSION TESTIMONY WHICH CLEARLY ADMITTING TO BEING THE ACTUAL KILLER, FACT,

QUESTION 5) PRESENTED

THE HEARING COURT JUDGE ERRED IN NOT HAVING A EVIDENTIARY HEARING ORDERED.

THE STATE OF CALIFORNIA OWN SUPREME COURT RULED THAT APPELLANTS SPECIAL CIRCUMSTANCES FINDINGS ISSUED BY JURY BEFORE PEOPLE V. BANKS AND PEOPLE V. CLARK "DO NOT" PRECLUDE A DEFENDANT FROM MAKING OUT A PRIMA FACIE CASE FOR RELIEF UNDER SB 1437, PC. 1170.95 NOW 1172.6 RE-SENTENCING PETITION. THERE EXIST A CONFLICT OF LAW AND CAL. SUPREME COURT RULINGS HERE. APPELLANT CASE CONVICTION WITH SPECIAL CIRCUMSTANCE FINDINGS ARE IN FACT BEFORE PEOPLE V. BANK AND PEOPLE V. CLARK AND ALL PARTIES DID IN FACT KNOW THIS. SO HOW CAN THE HEARING COURT, APPELLATE COURT AND CAL. ASST. ATTY GENERAL "DENY" APPELLATE A PRIMA FACIE CASE FOR RELIEF UNDER SB 1437 PC. 1170.95 NOW 1172.6. NEW 1172.6 GUIDELINES DO NOT MAKE IT RETROACTIVE BEFORE PEOPLE V. BANKS AND PEOPLE V. CLARK. WHAT IS SURPRISING IS THAT CALIFORNIA SUPREME COURT ALLOWED ITS APPEAL COURT TO OVERTHROW ITS OWN DECISIONS. (SEE RELATED CASES) ALL ALLEGATION WERE BROUGHT TO THE APPEAL COURTS AND CALIFORNIA SUPREME COURT IN APPELLANT APPEAL BRIEFS AND CALIFORNIA SUPREME COURT PETITION FOR REVIEW BY APPELLANT SEE APPENDIX C.

NOW BEFORE THIS HONORABLE COURT UNDER "BRADY MATERIAL CAN A EVIDENTIARY HEARING BE NOT ORDERED OR DENIED BY ANY STATE OR U.S. COURT WHEN THAT STATE COURT HAS ADMITTED TO THAT STATE TRIAL TRANSCRIPT EVIDENCE NOT JUST BEING MISSING, BUT BEING DESTROYED REMEMBER THIS IS A CAPITAL CASE. TRIAL TRANSCRIPT IN ANY PETITIONERS SB 1437, 1170.95 NOW 1172.6 RESENTENCING PETITION CAN IN "FACT" POTENTIALLY PRODUCE EXCULPATORY EVIDENCE IN DIRECT SUPPORT OF THIS DEFENDANT, APPELLANTS

U.S. SUPREME COURT - PETITION FOR A WRIT OF CERTIORARI
WINDHAM V. CA. SUP. CT

QUESTION (5) PRESENTED

VINDICATION OF CONVICTION AS SB 1437 LEGISLATIVE DIGEST
COUNSEL'S BILL DIRECTS, APPROVED BY CALIFORNIA GOVERNOR
SEPT. 30, 2018, APPENDIX B PG 83.

PRESERVATION OF RELEVANT EVIDENCE IS APPLICABLE BECAUSE
CLEAR SUPPRESSION OF PROSECUTION WITNESS R. J. ANDERSON APRIL
3, 1985 TRIAL TESTIMONY CONFESSION OF HIM BEING THE ACTUAL KILLER.
THIS IS NOT HARMLESS AND COURTS, PROSECUTOR ARE IN FACT WITHHOLDING
THIS EVIDENCE. DO ANY STATE COURT VIOLATE DUE PROCESS CLAUSE
OF THE FOURTEENTH AMENDMENT. THE DUE PROCESS CLAUSE OF U.S. CONST.
AMEND. XIV, REQUIRES THE STATE TO DISCLOSE TO CRIMINAL DEFEND-
ANT (PETITIONER) FAVORABLE EVIDENCE THAT IS MATERIAL EITHER TO
GUILT OR PUNISHMENT? A EVIDENTIARY MUST HAVE ORDERED BUT DID
NOT, WHY?

CAN CALIFORNIA SUPREME COURT DEPUTY COURT CLERK "DENY" ANY
STATE APPELLANT ALIKE APPELLANT A "PETITION FOR REVIEW - SOLELY
FOR THE PURPOSE OF EXHAUSTING STATE REMEDIES 1-8-24
(EVEN WHEN REVIEW IS DISCRETIONARY). APPELLANT'S PETITION FOR
REVIEW BY CALIFORNIA SUPREME COURT - SOLELY FOR THE PURPOSE OF
EXHAUSTING STATE REMEDIES IS REQUIRED OF THE HIGHEST STATE COURT
UNDER CAL. R. OF COURT 8.508 IN 5.44, 28 U.S.C. 1254; U.S. SUPREME
COURT R. 10-16, 28 U.S.C. 2254, 28 U.S.C. 1257(A), U.S. SUPREME COURT
R. 13-1 (CERTIORARI) AND PURSUANT TO O'SULLIVAN V. BOERCKEL, 526
U.S. 838 (1991), APPENDIX C PG 160-179

NOTE: APPELLANT MADE ALL COURTS AWARE OF THESE VIOLATION ALLEGATIONS
AS DOCUMENTED IN APPENDIX A, B, C WHICH WERE ALL DISREGARDED NOR
ADDRESSED WHY? EVEN CONFLICT OF ATTORNEY NOT ADDRESSED WHY?

LIST OF PARTIES

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 :

MONTEREY CALIFORNIA SUPERIOR COURT
SALINAS, DIVISION MCR 4493

TABLE OF CONTENTS

PAGES

1. COVER OF U.S. SUPREME COURT PETITION
FOR A WRIT OF CERTIORARI

1

2. QUESTION(S) PRESENTED

I, II, III.

3. LIST OF PARTIES

2

4. TABLE OF CONTENTS

3

5. TABLE OF AUTHORITIES

4

6. OPINIONS BELOW

5

7. JURISDICTION

6

8. CONSTITUTIONAL PROVISIONS

7

9. STATEMENT OF THE CASE

8, 9, 10, 11

10. REASONS FOR GRANTING THE WRIT

12, 13, 14, 15

11. APPENDIX A, B, C

16 THRU 179

12. CONCLUSION

13. DECLARATION

3

14. PROOF OF SERVICE

TABLE OF AUTHORITIES

RELATED CASES

WEARRY V. CAIN, 577 U.S. 385 (2016)

O'SULLIVAN V. BOERCKEL, 526 U.S. 838 (1991)

BRADY V. MARYLAND, 373 U.S. 83 (1963)

GIGLIO V. UNITED STATES, 405 U.S. (1972)

YOUNGBLOOD V. WEST VIRGINIA, 547 U.S. 867 (2006)

KYLES V. WHITLEY, 514 U.S. 419 (1995)

UNITED STATES V. BAGLEY, 473 U.S. 667 (1985)

LILLY V. VA., 527 U.S. 116 (1999)

SMITH V. ROBBINS, 528 U.S. 259 (2000)

PENNSYLVANIA V. FINLEY, 481 U.S. 551 (1987)

HOWARD V. CLARK, 608 F. 3d 9th CIR. (2010)

PEOPLE V. BANKS, 61 CAL. 4th 788 CA. SUP. CT. (2015)

PEOPLE V. STRONG, 13 CAL. 5th SUP. CT. (2022)

PEOPLE V. DRAYTON, 47 CAL. 5th 965 (2020)

PEOPLE V. DUCHINE, 60 CAL. APP. 5th 798 (2021)

PEOPLE V. JONES, 186 CAL. APP. 4th 216 (2010)

PEOPLE V. RAMIREZ, 41 CAL. APP. 5th 923 (2019)

RE CORDERO, 46 CAL. 3d 161 (1988)

PEOPLE V. ARREGUIN, 89 CAL. APP. 5th 58 (2023)

PEOPLE V. SECREASE, 63 CAL. APP. 5th 231 (2021)

PEOPLE V. FLORES, 76 CAL. APP. 5th 974 (2022)

WINDHAM V. CA. SUP. CT

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 A to the petition and is

☒ reported at PEOPLE V. WINDHAM 5263030/5282620; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the CA. APPEAL CT. SIXTH DISTRICT H047278 court appears at Appendix A to the petition and is

☒ reported at PEOPLE V. WINDHAM; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

5

JURISDICTION

THE JURISDICTION OF THE U.S. SUPREME COURT IS INVOKED
UNDER 28 U.S.C. § 1257(A)

(A) 28 U.S.C. § 1257(A) WHICH PROVIDES THAT JURISDICTION IN THIS COURT EXTENDS TO FINAL JUDGMENTS RENDERED BY THE HIGHEST COURT OF A STATE IN WHICH A DECISION COULD BE HAD. THE COURT ALSO HAVE JURISDICTION TO REVIEW THE JUDGMENTS UNDER 28 U.S.C. § 1257(A). THIS STATUTE PROVIDES FOR THIS HONORABLE COURT'S EXERCISE OF JURISDICTION OVER FINAL JUDGMENTS OR DECREES, SENTENCES, ALIKE CALIFORNIA SUPREME COURT, PEOPLE V. SAMUEL WINDHAM, JR. #S282620 DATED DECEMBER 13, 2023 WHICH RENDERED ITS FINAL AND FURTHER STATED THE CASE "WOULD NOT BE RECONSIDERED" APPENDIX C PG'S 155, 167.

(1) CALIFORNIA SUPREME COURT PEOPLE V. SAMUEL WINDHAM JR. #S282620 DENIED A FEDERAL STATUTE GOVERNING PROCEDURES IN THAT STATES SUPREME COURTS PROCEDURES, APPENDIX C PG 175

(2) CALIFORNIA SUPREME COURT #S282620 SAMUEL WINDHAM V. CA SUP. CT DID IN FACT DISREGARD U.S. AND CAL. CONSTITUTIONAL RIGHTS IN ITS DECEMBER 13, 2023 DENIAL, APPENDIX C 147, 155

(3) UNITED STATES CONSTITUTION ARTICLE VI, CLAUSE 2 (SUPREMACY CLAUSE)
CL 2. SUPREME LAW. THIS CONSTITUTION, AND THE LAWS OF THE UNITED STATES WHICH SHALL BE MADE IN PURSUANCE THEREOF; AND ALL TREATIES MADE, OR WHICH SHALL BE MADE, UNDER THE AUTHORITY OF THE UNITED STATES, SHALL BE THE SUPREME LAW OF THE LAND; AND THE JUDGES IN EVERY STATE SHALL BE BOUND THEREBY, ANY THING IN THE CONSTITUTION OR LAWS OF ANY STATE TO THE CONTRARY NOTWITHSTANDING.

CONSTITUTIONAL PROVISIONS

UNITED STATES CONSTITUTION - FOURTEENTH AMENDMENT ART. 1
DUE PROCESS CLAUSE - EVIDENCE

UNITED STATES CONSTITUTION - SIXTH AMENDMENT
DUE PROCESS - INEFFECTIVE COUNSEL

ARTICLE VI, CLAUSE 2 (SUPREMACY CLAUSE)

CONSTITUTION OF THE STATE OF CALIFORNIA ART. 1 SEC. 7, SECT.
15 DUE PROCESS - RIGHT TO BE PRESENT WITH ATTORNEY

CALIFORNIA SENATE BILL 1437, 1170.95 "LEGISLATIVE DIGEST SEC. 1,
2, 3 - 1170.95, SEC. 4, 5 "ACCOMPLICE LIABILITY"

CALIFORNIA CRIMINAL LAW "COUNSEL DUTY" (CA. CRIM. L. PROCEDURE (2018)

CALIFORNIA CRIMINAL P.C. SEC. "1054(e)" - "DISCOVERY DUE PROCESS
REQUIRED" APPENDIX B PG. 117

BRADY MATERIAL, BRADY CLAIM - A CUMULATIVE EVALUATION OF THE
MATERIALITY OF WRONGFULLY WITHHELD EVIDENCE IS "REQUIRED"

UNITED STATE SUPREME COURT R. 10-16

UNITED STATES SUPREME COURT R. 13-1 (CERTIORARI)

CAL. R. OF COURT 8.528(e)

CAL. R. OF COURT 8.508 IN 5.44 (CEB) 1.41 APPELLATE REVIEW

CAL. PENAL CODE 1054.1 SUB D.(e) EXCULPATORY EVIDENCE

STATEMENT OF THE CASE

IN APRIL 17, 1985 AT THE MONTEREY CALIFORNIA SUPERIOR COURT -
SALINAS DIVISION CASE NO. 4493 TRIAL JUDGE RICHARD M. SILVER, APPELLANT
WAS CONVICTED OF 1ST DEGREE FELONY MURDER, PC 187 WITH SPECIAL CIRCUM-
STANCES PC 190.2 AND PC 190.2(A), BURGLARY PC 459, 3RD CT. ASSAULT PC 245a,
ARSON PC 451(a) BY TRIAL JUDGE AND SENTENCED TO 25 YRS. TO LIFE W/O THE
POSSIBILITY OF PAROLE. AFFIRMED CT. OF APP. SIXTH DISTRICT "H000726 5-4-1987
BY "OPINION."

ON SEPT. 30, 2018 THE STATE OF CALIFORNIA THEN GOVERNOR J. BROWN AND
THE PEOPLE OF CALIFORNIA VOTED AND APPROVED, PASSED AND SIGNED INTO LAW
"NEW STATE CONSTITUTIONAL LAW," SENATE BILL 1437- ACCOMPLICE LIABILITY FOR
FELONY MURDER, AND TO ADD 117D.95 TO THE PENAL CODE, RELATING TO MURDER
SPECIFICALLY FOR A "NON-ACTUAL KILLER" ALIKE APPELLANT APPENDIX "B"

ON APRIL 8, 2019, APPELLANT SUBMITTED A PETITION FOR RE-SENTENCING UNDER
THE NEW SB 1437 WITH ALL DOCUMENTED DECLARATIONS AND REQUIREMENTS, APRIL
22, 2019 MONTEREY SUPERIOR COURT CLERK STAMPED FILED THE SB 1437 PETITION.

ON MAY 10, 2019 MONTEREY SUPERIOR COURT JUDGE MARK HODDGEON REVIEW
ORDERED FURTHER REVIEW AND PROCEEDINGS WHICH INCLUDED THE APPOINTMENT
OF COUNSEL AS PC 117D.95 ELIGIBILITY DIRECTS. BETWEEN MAY 10, 2019 AND MAY
30, 2019, WAS NEVER INFORMED OF ANY HEARINGS, WAS NOT INFORMED OF A APPOINTED
COUNSEL, APPELLANT DID ADDRESS CONCERNS TO FIRST DISTRICT APPELLATE PROJECT AND THE
SIXTH APPELLATE PROJECT TO FIND THE EXISTENCE OF COUNSEL FACT. A APPOINTED COUNSEL
AT APPELLANT'S AUGUST 21, 2019 MONTEREY SUPERIOR COURT RESENTENCING HEARING
DID IN FACT DECLINE A BURDEN OF PROOF DEFENSE; WHO DOES THIS? APPENDIX "B"
RE-SENTENCING WAS DENIED, KNOWING AND DISREGARDING THE APRIL 3, 1986
PROSECUTION TRIAL WITNESS CONFESSION TESTIMONY OF CO-DEFENDANT R. J. ANDERSON
COMMITTING THIS TRAGEDY, APPENDIX "A", PG. 42, WITH APPOINTED COUNSEL

CONTINUED STATEMENT OF THE CASE

EVAN GEORGE #291160 NOT DEMANDING AT MINIMUM A DISCOVERY OF
TRIAL TRANSCRIPT OF R.J. ANDERSON TESTIMONY. APPENDIX B PG 100.

ON SEPTEMBER 6, 2019 APPELLANT FILED A APPEAL TO THE SIXTH
DISTRICT APPELLATE COURT OF CALIFORNIA ON HIS OWN THAT HAS APPOINTED
COUNSEL EVAN GEORGE ON PG. 102 PGS AND APPELLATE ON PG. 202 PG. DATED
AUG. 21, 2019? APPENDIX PG'S 77-80

ON SEPT. 18, 2019 THE SIXTH DISTRICT APPELLATE PROGRAM RECOMMENDED
AND THE STATE OF CALIFORNIA SIXTH APPELLATE DISTRICT COURT APPOINTED A ATTORNEY
JEFFREY KROSS #142882 TO REPRESENT APPELLANT AN APPEAL. AGAIN THE TRIAL
TRANSCRIPT CONFESSION OF R.J. ANDERSON BY PROSECUTION WAS DISREGARDED AS
WAS THE POLICE REPORT, AND APPOINTED COUNSEL JEFFREY KROSS #142882 FILED
A "NO ISSUE BRIEF" TO THE SIXTH APPELLATE DISTRICT COURT AGAIN WITHOUT A QUESTION
OF R.J. ANDERSON PROSECUTION CONFESSION IN TRIAL TRANSCRIPTS. NO COURT'S ASSERTION
THAT TRIAL TRANSCRIPTS WERE MISSING OR DESTROYED. ONLY EVIDENCE IS OPINIONS,
AND HEARSAY. APPENDIX "A" PG 43-50 DEC. 3, 2019 CASE # H04278

ON DEC. 31, 2019 APPELLANT BY RULE SUBMITTED HIS OWN SUPPLEMENTAL BRIEF
THAT ALLEGED FACTS WITH SUPPORTED DOCUMENTS. APPENDIX "A" PG 51-75. ON FILED
MAY 21, 2020 SIXTH DISTRICT COURT OF CALIFORNIA APPELLATE DISMISSED APPEAL FOR
LACK OF ARGUABLE ISSUES APPENDIX "A" PG 17-24

THEN SHOCKINGLY ON MAY 21, 2020 I RECEIVED CORRESPONDANCE AND THE CLERK'S
TRANSCRIPTS AND REPORTER'S TRANSCRIPT RECORDS FROM APPEAL. FROM APPELLANT
ATTORNEY JEFFREY KROSS #142882 THAT CONTAINED DIRECT SUPPORT OF APPELLANT'S
ALLEGATIONS AND SUBMITTED THEM AS EXHIBITS ATTACHED TO MY CALIFORNIA
SUPREME COURT PETITION FOR REVIEW JUNE 19, 2020 APPENDIX "C" PG. 115B+115C
SUPREME COURT OF CALIFORNIA PEOPLE V. WINDHAM NO. S263030.

THEN ON JUNE 26, 2020 THE CALIFORNIA SUPREME COURT ACKNOWLEDGE RECEIPT

CONTINUED STATEMENT OF THE CASE

OF APPELLANT'S PETITION FOR REVIEW WITH OVER 30 PAGES AND OVER
10 PAGES OF EXHIBITS IN DIRECT SUPPORT OF ALLEGATIONS ON APPEAL.
AFTER SUBMITTING ALL REQUIRED APPLICATIONS ON JULY 9, 2020 AND UPON ITS
APPROVAL THE CALIFORNIA SUPREME COURT ON AUG. 26, 2020 "GRANTED" REVIEW,
WITH A 7-0 DECISION BY CHIEF JUSTICE CANTIL-SAKAUYE. APPENDIX "C"
PG'S 114-141. THEN AFTER CONFIRMING APPELLANT'S COUNSEL LACK OF APPROPRIATE
DEFENSE, DUTY OF COUNSEL APPELLANT DID IN FACT FILE A MOTION OF CONFLICT
OF REPRESENTATION AT THE CA. SUPREME COURT ON SEPT. 19, 2020, AGAIN THE
COURT DID NOT ADDRESS THIS AND CONTINUED TO PERMIT THIS ATTORNEY TO
REPRESENT APPELLANT, WHY? APPENDIX "C" PG. 142. FACT.
THEN ON OCT. 27, 2021 THE CALIFORNIA SUPREME COURT EXPANDED MY CASE
ON ISSUES ARISING IN ANOTHER RELATED CASE, BY CHIEF JUSTICE CANTIL-SAKAUYE.
APPENDIX "C" PG. 145 FACT.
THEN ON JUNE 28, 2023 AFTER CALIFORNIA SUPREME COURT'S FURTHER CONTINUED
REVIEW TRANSFERRED APPELLANT'S APPEAL BACK TO COURT OF APPEAL, SIXTH APPELLATE
DISTRICT, WITH DIRECTIONS TO "VACATE" ITS DECISION WITH OTHER DIRECTIONS AGAIN
BY NOW CHIEF JUSTICE GUERRERO 7-0 DECISION APPENDIX "C" PG. 146.
THEN ON TRANSFER TO COURT OF APPEAL, SIXTH APPELLATE DISTRICT FILED ITS
DECISION ON "PRIOR" OPINIONS WITH "NO EVIDENCE OF TRIAL TRANSCRIPTS"
AND STATED SUCH IN ITS SEPT. 29, 2023 "OPINION" AND AFFIRMED EVEN
WHEN THE CALIFORNIA SUPREME COURT HAD PREVIOUSLY "VACATED" THIS SAME
SIMILAR OPINION WITHOUT EXCULPATORY EVIDENCE, DUE PROCESS VIOLATIONS,
EVEN BEING ADDRESS, NOT EVEN 1172.6 ELIGIBILITY BECAUSE CASE PREDATES
BANKS & CLARK, NO EVIDENTIARY HEARING EVEN ORDERED. APPENDIX "A"
PG 26-40 FACT.
THEN APPELLANT AGAIN ON HIS OWN PETITIONED THE CALIFORNIA

CONTINUED STATEMENT OF THE CASE

SUPREME COURT FOR A PETITION FOR REVIEW - UPON TRANSFER W/OUT
CA. SUP. CT. DECISION (CAL. R. OF CT. 8.528(c) NOV. 7, 2023, NOTICE OF APPEAL
OCT. 25, 2023 AND NOV. 15, 2023 RE-ASSIGNING CASE NO. TO S282620 AND PETITION FOR
REVIEW BEING "DENIED" DEC. 13, 2023 WITHOUT ADDRESSING AGAIN FACTUAL ISSUES.

NOW BEING RE-ASSIGNED CASE #S282620 FROM S263030 APPELLANT THEN
PETITION FOR REVIEW - SOLELY FOR THE PURPOSE OF EXHAUSTING STATE REMEDIES
WHICH IS REQUIRED "EVEN WHEN THAT COURT'S REVIEW IS DISCRETIONARY" BY RULE.

APPENDIX "C" PG 147-179 FACTS. SEE U.S. CONSTITUTION ART. VI, CLAUSE 2 ("
SUPREMACY CLAUSE").

THEN APPELLANT PETITIONED TO THE UNITED STATES SUPREME COURT FOR A
PETITION FOR A WRIT OF CERTIORARI POST MARKED MARCH 12, 2024 AND RECEIVED
MARCH 20, 2024. FOR THE HONORABLE JUSTICES HELP, BECAUSE PROSECUTION
AND DEFENSE FAILURE TO DISCLOSE MATERIAL EVIDENCE THAT DID IN FACT
VIOLATE A LWOP INMATE DUE PROCESS RIGHTS. CO-DEFENDANT'S CONFESSION,
IT WOULD UNDERMINE CONFIDENCE IN "WINDHAM'S" CONVICTION, FACT.

U.S. Supreme Court
Petition for Writ of Certiorari
REASONS FOR GRANTING THE PETITION

WINDHAM V. CAL. SUP. CT

1:

2:

3:

4:

5:

6:

7:

8:

9:

10:

11:

12:

13:

14:

15:

16:

17:

18:

19:

20:

21:

22:

23:

24:

25:

26:

27:

28:

1. BECAUSE THE HONORABLE U.S. SUPREME COURT
JUSTICES NOW HAVE A CASE BEFORE IT WHERE A U.S.
INCARCERATED DISABLED CITIZEN WAS DENIED DUE
PROCESS FROM SUPERIOR COURT OF MONTEREY CALIFORNIA
SENATE BILL 1437, 1170.95 RE-SENTENCING HEARING.

PETITIONER WAS ORDERED A HEARING ON 1437 PETITION
AND WAS DENIED HIS PRESENCE WITH ATTORNEY WITHOUT A
COMMUNICATED OR SIGNED WAIVER, VIOLATING U.S. CONSTITUTION
FOURTHENTH AMENDMENT AND CALIFORNIA CONSTITUTION ART. 1
SEC. 15 DUE PROCESS. RE-SENTENCE "DENIED" APPENDIX B

H047228

Attachment

2. CALIFORNIA SIXTH APPELLATE DISTRICT DENIED PETITIONER'S
APPEAL SIGHTED PETITIONER INELIGIBILITY UNDER 1172.6
NEW STATUTES. PETITIONER WAS / IS ELIGIBLE BECAUSE THE APPEALS
COURT DID NOT UPHOLD THEIR OWN STATE SUPREME COURT'S RULING
THAT SPECIAL CIRCUMSTANCES FINDINGS ISSUED BEFORE PEOPLE V.
BANKS AND PEOPLE V. CLARK "DO NOT" PRECLUDE A DEFENDANT
FROM MAKING OUT A PRIMA FACIE CASE FOR RELIEF UNDER S.B.
1437, P.L. 1170 NOW 1172.6, ESPECIALLY WHEN APPELLANT IS NOT THE
ACTUAL KILLER. SIXTH APPELLATE COURT DISTRICT "DID ERR". SEE
NUMEROUS CITED CASES IN TABLE OF AUTHORITIES AND CALIFORNIA
SUPREME COURT CASES. U.S. SUPREME COURT IS NEEDED TO DIRECT
THE STATES AND CALIFORNIA TO STOP DENIALS WHEN PETITIONERS
ARE ELIGIBLE BY CALIFORNIA SUPREME COURT DECISIONS. MANY
PETITIONER ARE BEING DENIED WRONGFULLY WHEN THEY QUALIFY.

12

APPENDIX A
Attachment's

REASONS FOR GRANTING THE PETITION

CONTINUED

H047278

SIXTH APPELLATE DISTRICT, APPEAL COURT OF CALIFORNIA
ALSO AFFIRMED SUPERIOR COURT DECISION WHEN IT KNEW
OF U.S. CONSTITUTIONAL AND STATE CONSTITUTIONAL due PROCESS
VIOLATIONS AND DID NOT EVEN ADDRESS THEM. APPELLATE
WAS DENIED APPEAL WHEN THERE IS NO STATED OR
CITED EXCULPATORY EVIDENCE. PETITIONER IS DENIED
SOLELY ON COURT'S OPINIONS. THE PROSECUTION ONLY SIGHTS
THAT TRANSCRIPTS OF EVIDENCE IS DESTROYED BY RULE A
EVIDENTIARY HEARING SHOULD HAVE BEEN ORDERED.

THE HONORABLE JUSTICES HAS TIME AFTER TIME, CASE AFTER
CASE THAT INCLUDE THE "BRADY RULE" WHEN SUCH EXCULPATORY
EVIDENCE FAVORABLE TO AN ACCUSED. EXCULPATORY EVIDENCE
DO POSSES VALUE THAT WAS APPARENT BEFORE IT WAS
DESTROYED BECAUSE IT CONTAINS THE CONFESSION OF R. J.
ANDERSON ADMITTING TO THE CAUSE OF THIS TRAGEDY AND
THE OFFICIAL FIRE MARSHAL'S REPORT OF A ACCIDENTAL
IGNITION OF A WATER HEATER PILOT LIGHT. THE FOURTEENTH
AMENDMENT DEMANDS THAT THE STATE PRESERVE POTENTIALLY
EXCULPATORY EVIDENCE ON BEHALF OF DEFENDANTS. THEIR
ARE NUMEROUS FED AND STATE LAWS, CASES AND STATUTES
THAT THE APPEALS COURT SHOULD HAVE REVERSED ITS DECISION
AND REMANDED THIS CASE AT MINIMAL FOR A EVIDENTIARY
HEARING PLEASE SEE TABLE OF AUTHORITIES PAGE 3 WITH YOUR
SUPREME COURT JUSTICES RULINGS. CALIFORNIA SIXTH APPELLATE
DISTRICT IS IN DIRECT CONFLICT WITH U.S. CONSTITUTIONAL LAW, U.S.

U.S. Sup. Court
Petition Writ of Certiorari
REASONS FOR GRANTING THE PETITION

CONTINUED

1:

2:

3:

4:

5:

6:

7:

8:

9:

10:

11:

12:

13:

14:

15:

16:

17:

18:

19:

20:

21:

22:

23:

24:

25:

26:

27:

28:

SUPREME COURT CITED OPINIONS WHICH IS A NATIONAL
IMPORTANT CASE INVOLVING EXCULPATORY EVIDENCE. THE
SUPPRESSION OF EVIDENCE IS CLEAR BECAUSE PROSECUTION HAD
THE EXCULPATORY EVIDENCE AT PETITIONER TRIAL, AND NOW ALL OF A
SUDDEN IT HAS BEEN DESTROYED. REALLY? BRADY V.
MARYLAND, 373 U.S. 83 BY YOUR HONORABLE JUSTICES HELD
THAT SUPPRESSION OF EVIDENCE BY STATE VIOLATED PETITIONERS
RIGHTS UNDER DUE PROCESS CLAUSE, U.S. CONST. AMEND. XIV
STATE THE SUPPRESSION OF EVIDENCE FAVORABLE TO AN ACCUSED
IS ITSELF SUFFICIENT TO AMOUNT TO DENIAL OF DUE PROCESS.

SEE APPENDIX A, C

W/
ATTACHMENTS IN SUPPORT

282620

CALIFORNIA SUPREME COURT DENIED REVIEW. PETITIONER THEN
FILED A PETITION FOR REVIEW - SOLELY TO EXHAUST STATE REMEDIES
THE CAL. SUPREME COURT BY LETTER INFORMED PETITIONER THAT IT WILL
BE DENIED AND UNFILED. PETITIONER RESPONDED BY LETTER, STATING
THAT CAL. R. OF COURT, 28 USC. 1254; U.S. SUP. CT. R 10-16; 28 USC
1257; U.S. SUP. CT. R 13-1 (CERTIORARI) PERMITS (EVEN WHEN THAT
COURTS REVIEW IS DISCRETIONARY); AND IS THE HIGHEST COURT IN
CALIFORNIA IS REQUIRED, O'SULLIVAN V. BOERCKEL, 526 U.S. 838
CALIFORNIA SUPREME COURT DEPUTY CLERK BY LETTER STATED
THAT THE COURT DID NOT KNOW THE PROCEDURES OR REQUIREMENTS
FOR FILING IN THE FEDERAL COURTS. HONORABLE U.S. SUPREME
COURT JUSTICES AND ITS KNOWLEDGEABLE COURT CLERKS,

REASONS FOR GRANTING THE PETITION

(CONTINUED)

5282620

THIS IS SHOCKING THAT A SUPREME COURT OF ANY STATE IS UNAWARE OF PROCEDURES OR REQUIREMENTS NEEDED FOR FILING IN U.S. SUPREME COURT THE HIGHEST COURT IN OUR UNITED STATES OF AMERICA FACT.

THIS ISSUE ALONE BEGS FOR THE U.S. SUPREME COURT JUSTICES TO GRANT THIS PETITION BECAUSE THE COURTS IN THE STATE OF CALIFORNIA AS THE CA. SUP. CT. HAS STATED BY DIRECT CORRESPONDANCE TO APPELLATE "DO NOT HAVE A CLUE TO PROCEDURES"

JAN. 8, 2024 APPENDIX C. PG 157

PETITIONER HAS ONLY SUBMITTED A FRACTION OF DIRECT SUPPORT DOCUMENTS, ALL EXTREME AMOUNTS OF DIRECT SUPPORT DOCUMENTS WITH NUMEROUS EXHIBITS ARE IN CALIFORNIA SUPREME COURT RECORDS. JUNE 26, 2020 APPENDIX C PG. 134

PETITIONER DID NOT PERSUE OTHER JUDICIAL AVENUES BECAUSE OF THE JAN. 8, 2024 CORRESPONDANCE BY CA. SUP. CT. DEPUTY COURTS CLERK.

HONORABLE SUPREME COURT JUSTICES PLEASE ENTERTAIN OF HOW COULD ALL THESE VIOLATIONS OCCUR IN THIS PETITIONERS CASE PETITION WHEN AT EVERY LEVEL OF REVIEW "NO" ONE EVEN ADDRESS OR REFUT ANY OF APPELLANTS ALLEGATIONS WHY.

HONORABLE U.S. SUPREME COURT JUSTICES THE CALIFORNIA SUPREME COURT DID NOT EVEN ADDRESS PETITIONERS MOTION OF CONFLICT OF CLIENT ATTORNEY INTEREST SEPT. 19, 2020 WHY?

THIS CASE SHOULD NOT HAVE HAPPENED THIS WAY ALIKE IN YOUR CASE WEARRY V. CAIN, 577 U.S. 395 (2016), IT HAS CAUSED APPELLANT TO HAVE CONTINUED TO BE INCARCERATED FOR 14 DECADES NOW WHEN CO-DEFENDANT DID IN FACT CONFESSED TO THIS TRAGEDY, AND APPELLANTS OWN APPELLATE APPOINTED COUNSEL JEFFREY KROSS DID IN FACT FILE A "NO ISSUE BRIEF" KNOWING THESE EVIDENTIARY EXCULPATORY FACTS, WHY DID HE DO THIS TO ME?

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Samuel Sandham Jr. D-0668F
CORRECTED

Date: MAY 16, 2024

JURISDICTION CORRECTED JUNE 19, 2024
PER. U.S. SUPREME CT. DIRECTIVE 5-31-24

Samuel Sandham Jr. D-0668F
6-19-24



U.S. Sup. Court
Petition for Writ of Certiorari

DECLARATION

I, SAMUEL WINDHAM, JR / D-06659 HOUSED AT CALIFORNIA
MEDICAL FACILITY HEREBY DECLARE UPON PENALTY OF
PERJURY PURSUANT TO FEDERAL AND STATE LAW THAT ALL
OF THE FOREMENTIONED AND DOCUMENTS OF SUPPORT ARE
TRUE BY THIS PETITIONERS PERSONAL KNOWLEDGE.

EXECUTED THIS DATE: MARCH 13, 2024

EXECUTED AS CORRECTED: MAY 16, 2024

EXECUTED AS CORRECTED: JUNE 19, 2024

SAMUEL WINDHAM, JR.

Samuel Windham Jr.

CMF

PRO PER / APPELLANT

PETITIONER

3-13-24

CORRECTED

SAMUEL WINDHAM, JR.

Samuel Windham Jr.

CMF

PRO PER / APPELLANT

PETITIONER

MAY 16, 2024

CORRECTED JURISDICTION JUNE 19, 2024

Samuel Windham Jr.

PRO / PER PETITIONER

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

SAMUEL WINDHAM, JR — PETITIONER
(Your Name)

VS.

CALIFORNIA SUPREME COURT RESPONDENT(S)

PROOF OF SERVICE

I, SAMUEL WINDHAM, JR D-06689, do swear or declare that on this date, MARCH 13,, 2024, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

<u>SUPREME CT. OF CALIFORNIA</u>	<u>STATE OF CALIFORNIA, SIXTH APP. DISTRICT</u>	<u>DOJ / OFFICE OF AG</u>
<u>350 MCALLISTER STREET</u>	<u>333 WEST SANTA CLARA STREET</u>	<u>455 GOLDEN GATE AVE. STE. 11000</u>
<u>SAN FRANCISCO, CA 94102-4177</u>	<u>SAN JOSE, CA. 95113</u>	<u>SAN FRANCISCO, CA. 94102</u>

I declare under penalty of perjury that the foregoing is true and correct.

Executed on MARCH 13,, 2024

