Court of Appeal, Second Appellate District, Division Seven - No. B338076

S285560

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re DAVID FINK on Habeas Corpus.

The petition for review is denied.

GUERRERO
Chief Justice

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

In re DAVID FINK on Habeas Corpus.	B338076 (Super. Ct. No. BA435472) ORDER

THE COURT:

The court has read and considered the petition for writ of mandate, which is deemed a petition for writ of habeas corpus, filed May 28, 2024. The petition is denied.

Petitioner seeks to replace his appointed appellate counsel. He has not established good cause to do so. His request is denied.

The clerk is directed to transmit a copy of the petition and this order to Aaron J. Schecter, petitioner's counsel in appeal number B317362, pending in this court.

MARTINEZ, P. J. FEUER, J. RAPHAEL, J. (Assigned)

Case No.: _____

SUPREME COURT OF THE UNITED STATES

David Fink,

Petitioner.

VS.

State of California,

Respondent.

APPENDIX IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

David Fink, BR6598

POB-4000, A2-121

Vacaville Ca. 95696-4000

In Propria-Persona

APPENDIX IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

Telmate Bonner Jail Privileged Attorney-Client Eavesdroppings

Date	Eavesdropped	By Whom	Number Called	Duration	Listened	Attorney	Page
04/13/2015	04/13/2015	Shane Greenbank	(208)449-1163	04:30	Twice	Kevin Lacy	20
04/13/2015	04/13/2015	Shane Greenbank	(208)449-1179	00:41	6 Times	Branley, Amendola & Doty	20
04/13/2015	04/13/2015	Shane Greenbank	(208)449-1179	04:34	6 Times	Branley, Amendola & Doty	19-20
04/13/2015	04/13/2015	Shane Greenbank	(208)449-1163	04:34	Twice	Kevin Lacy	19
04/13/2015	04/13/2015	Shane Greenbank	(509)315-1919	04:34	Twice	Doug Phelps	19
04/13/2015	04/13/2015	Shane Greenbank	(208)449-1372	02:38	Twice	Dennis Tedimen-Lidimin	19
04/13/2015	04/13/2015	Shane Greenbank	(208)449-1547	01:30	Twice	Henry Natsen	18-19
04/13/2015	04/13/2015	Shane Greenbank	(208)449-1163	04:30	Twice	Kevin Lacy	18
04/13/2015	04/13/2015	Shane Greenbank	(208)449-1163	04:30	Twice	Kevin Lacy	17
4/14/2015 Redacted Greenbank Email to Prosecutor Doug Poston, Chief Sarkis Ohannessian & Sgt. Steven Chamberlain							
04/13/2015	04/15/2015	Shane Greenbank	(208)449-1163	00:16	Twice	Kevin Lacy	17
04/13/2015	04/15/2015	Shane Greenbank	(208)449-1547	17:28	Twice	Henry Natsen	17
04/16/2015	04/16/2015	Shane Greenbank	(208)597-1747	00:43	Twice	James Seedy	16-17
04/17/2015	04/20/2015	Shane Greenbank	(208)597-1747	04:42	Twice	James Seedy	16
04/17/2015	04/20/2015	Shane Greenbank	(509)315-1919	00:17	Twice	Doug Phelps	16
4/21/2015 Redacted Greenbank Email to Chief Sarkis Ohannessian							
04/17/2015	04/24/2015	Shane Greenbank	(509)315-1919	06:36	4 Times	Doug Phelps	14
04/17/2015	04/24/2015	Shane Greenbank	(509)315-1919	04:42	4 Times	Doug Phelps	14
5/5/2015 Attempted Extradition by Chief Sarkis Ohannessian							
05/12/2015	04/12/2015	Shane Greenbank	(208)334-2210	05:04	6 Times	Idaho Supreme Court	4-5
05/12/2015	04/12/2015	Louis Marshall	(208)334-2210	05:04	2 Times	Idaho Supreme Court	5
5/5/2015 Extradition by Chief Sarkis Ohannessian							
			Total Duration:	01:24:04			

Glo[illegible] Tel Link San Bernardino Ja[illegible] Calls

039

Date	Numbe[illegible]lled	Duration	Listened	[illegible]ll Recipient	Notes
06/01/2015	(509)893-9376	00:48	Once	Atty Doug Phelps	No
06/10/2015	(509)893-9376	00:41	Once	Atty Doug Phelps	No
06/12/2015	(509)893-9376	00:33	Once	Atty Doug Phelps	No
06/12/2015	(509)893-9376	04:41	Three Times	Atty Doug Phelps	No
06/12/2015	(509)893-9376	06:24	Twice	Atty Doug Phelps	No
	Total Duration:	13:07			

Securus Technologies Bernardino Jail Calls

Date	Number Called	Duration	Listened	Call Recipient	Notes
11/10/2015	(909)835-6179	05:27	CD	Investigator	No
11/12/2015	(909)835-6179	04:47	CD	Investigator	No
11/19/2015	(909)835-6179	08:22	CD	Investigator	Yes
12/03/2015	(909)835-6179	07:48	CD	Investigator	No
12/07/2015	(909)835-6179	01:43	Once	Investigator	No
12/07/2015	(909)835-6179	00:07	Once	Investigator	No
12/07/2015	(909)835-6179	02:21	Once	Investigator	No
12/08/2015	(909)835-6179	07:20	Twice	Investigator	No
12/22/2015	(909)835-6179	00:28	Twice	Investigator	No
12/22/2015	(909)835-6179	03:05	Twice	Investigator	No
01/15/2016	(909)835-6179	08:16	Once	Investigator	Yes
01/25/2016	(909)835-6179	04:02	Once	Investigator	Yes
01/25/2016	(909)387-8372	00:17	Twice	Public Defender	No
02/10/2016	(909)835-6179	04:14	Once	Investigator	Yes
02/11/2016	(909)835-6179	03:33	Once	Investigator	Yes
02/17/2016	(909)835-6179	03:15	Once	Investigator	Yes
03/01/2016	(909)835-6179	06:43	Once	Investigator	Yes
04/01/2016	(909)835-6179	04:15	Once	Investigator	No
04/12/2016	(909)835-6179	03:33	Once	Investigator	No
04/23/2016	(909)835-6179	04:09	Once	Investigator	No
05/03/2016	(909)835-6179	04:07	Once	Investigator	No
07/24/2016	(951)742-7724	02:18	Once	Atty James McGee	No
	Total Duration:	01:30:09			

David Fink, BR6598
In Propria-Persona
POB-4000, A2-121
Vacaville Ca. 95696

CALIFORNIA SUPREME COURT

David Fink, Appellant/Petitioner. VS. Cal. Court of Appeal & Judicial Counsel of California, Appellee/Respondents.	Case No.: COA Appeal Case No.: B317362/B338076 **PETITION FOR REVIEW** *(From Mandate Petition & Direct Appeal)*

INTRODUCTORY

Review should be granted to preserve the substantial right of appeal (**Bracey Grumbley**, 520 US 899 (1997)(prisoner made sufficient showing of judicial bias steeped in corruption) because:

(1. "Petitioner's" ("Pet.s") $60,000 in restitution "***disappeared***." Judge Hall, one of the most reversed judges in the Los Angeles court system (Appendix-D), issued orders extracting "*Chief Deputy Sheriff* Sarkis Ohannessian" ("*Chief*") from criminal wrong-doing which defy gravity, go far beyond "objectionably unreasonable" establishing embroilment amounting to "fraud on the court" (See Appendix A-B).

(2. The *Chief* was only involved in 5 out of 62 counts (RT: 711:16-28), and testified that none of his victims lost money. Nor did any victim testify at trial there was a loss. There should have been no victim restitution. Yet Judge Hall held Pet owed $101,883.73 in restitution (RT: 4854:21-4855:12) to victims who were never named in the complaint, identified or testified at trial. Judge Hall ordered the *Chief* could divi-it-up as he sees fit (RT: 4855:13-4856:8), and then failed to deduct the $60,000.00 from the restitution order.

(3. Judge Hall allowed the *Chief* to file pro-per documents as if he was a prosecutor (CT: 5689). Judge Hall said the *Chief* had made a request for the money (RT: 4855:13-4856:8), yet there is no request is in the record. Was the request ex-parte? Should the missing money be construed as a bribe?

(4. The COA is aware that a good part of the lower court record was missing from the appeal. Failure to supplement the record "cannot be ascribed to trial strategy and tactics." (**Hoots v. Allsbrook**, 785 F.2d. 1214, 1220 (4th Cir. 1986)) "***because counsel can hardly be said to have made a strategic choice when s/he has not yet obtained the facts which such a decision could be made.***" (**United States v. Gray**, 878 F.2d. 702, 712 (3rd Cir. 1989)). Yet the COA refused to appoint an attorney who would supplement the record and bring highly substantial claims. "Ineffective Assistance of Appellate Counsel" ("IAAC") is conclusively established where s/he failed to raise: **(a.** "potentially meritorious" claims; or **(b.** one's "stronger than those present on appeal." (**Nguyen v. Curry**, 736 F.3d. 1287, 1291-97 (9th Cir. 2013) and **Hurles v. Ryan**, 752 F.3d. 768, 783 (9th Cir. 2014)).

Does such a substantial right of appeal require a **Nguyen/Hurles** review in this case?

ISSUES SUBJECT TO REVIEW

Why would the COA prohibit Pet. from bringing highly substantial claims on appeal, much better claims than IAAC raised (who didn't even have a complete record to make a tactical choice of which claims to bring), that would subject Pet. to a procedural bar for failing to raise the claims in the appeal (the **Dixon** bar)?

The appeal in this case was reduced to a farce or sham by appointed attorney's tactical choice to undermine the appeal with superficial issues (or watered down substantial issues) that converted the "*substantial right of an appeal*" into a "*charade*" complete with state actors acting out phony roles, amounting to a fraud on the court (**Trendsettah v. Swisher**, 31 F.4th at 1132-34 (9th Cir/ 2022)).

Pet. requests a grant and hold (CRC-8.512(d)(2)) so the appeal (due any day [oral arguments were on 5/2/2024]) can be reviewed with this petition to avoid the prodedural Dixon bar.

(a. Bogas Seizure Orders:

Under the "*Criminal Profiteering Act*" ("CPA"), a court only has jurisdiction to seize a defendant's assets after:

(1. A criminal conviction (PC-186.5(c)(2)).

(2. A filed forfeiture petition served upon the defendant (PC-186.4(a)).

(3. A pattern of criminal activity proven beyond a reasonable doubt before a jury (PC-186.4(a), 186.5(b), 186.7(a)) and

(4. The ***proposed order must be submitted to the court by a prosecutor*** (PC-186.2(c)).

Here the *Chief* impersonated a prosecutor under the Penal Code to submit the proposed bogas orders for Judge Pacheco's signature that were completely fraudulent. At the time the proposed orders were signed, Pet. was in Idaho, had ***never*** been served, had ***never*** been arraigned or appeared before Judge Pacheco. There was no petition, criminal conviction nor jury determination. The orders were never filed in any court, so they cannot be construed as a legal or judicial document. Yet the orders seized Pet.'s assets.

The order seized bank assets in other sovereign states where Pacheco *knew* he was without jurisdiction (**United States v. Cooley**, 919 F.3d. 1135, 1146 (9th Cir. 2019)). Bank assets seized in this manner constituted federal bank fraud (**United States v. Muho**, 978 F.3d. 1212, 1223 (11th Cir. 2020)).

The prelim court and prosecutor agreed the seizure orders were completely unlawful (PTV8: 54:26-28, 55:7-28, 58:9-59:22, PTV9: 11:7-9, 10:20-11:5), yet quashed Pet.'s subpoena for Judge Pacheco to testify whether the *Chief* forged his signature, which the COA petition shows was materially different from Judge Pacheco's normal signature (the signatures are displayed side-by-side).

"An officer of the court is an agent through whom the court acts." (**Spirki v. Bradshaw**, 404 F.Supp.2d. 984, 988 (D. Ohio 2005) quoting **Tangwall v. Joblonski**, 111 Fed.Appx. 365, Pg.3 (6th Cir. 2004)) which in this case was the *Chief* who (as a prosecutor under PC-186.2(c)) presented the fraudulent orders to Judge Pacheco (assuming Pacheco actually signed the orders). A single act of practicing law without a license violates B&P Code 6125(a)(**BMCF v. Superior Court**, 17 Cal.4th 119, 128 (1998)) and ***involves moral turpitude*** (**Hightower v. State Bar**, 34 Cal.3d. 150, 157 (1983)).

As there is no doubt the case would have to be dismissed if the *Chief* forged Judge Pachoco's signature (**Devereaux v. Abbey**, 263 F.3d. 1070, 1074 (9th Cir. 2013)(***en banc***)), Pet. is entitled to an evidentiary hearing for this very purpose. (one of the bogas seizure orders is attached to the COA petition as Appendix-E).

(b. Worst Case of Criminal Eavesdropping in California's History:

On March 10, 2015, Pet. was arrested in Idaho. Chief Deputy Prosecutor Shane Greenbank dropped all charges against Pet., and emailed the *Chief* that he would be unlikely to file any new charges, ***before*** the execution of the Idaho search warrants (CT: 5291-94). A reasonable inference can be drawn that every thing Greenbank did beyond this point was for the benefit of the People here.

On April 13, 2015, Greenbank eavesdropped on eight (8) calls Pet. made from jail to attorneys (CT: 5252-54; *9/10/2020 Trs*, 57:27-65:7). The following day, Greenbank transmitted his only email to San Bernardino DDA Doug Poston, which was ***redacted*** (CT: 5280-84).[1]

Greenbank eavesdropped on four (4) additional attorney-client calls (CT: 5250-51).

The audit records show Greenbank eavesdropped on attorney-client calls a total of 34 times (CT: 5230, 5238-39, 5250-51). Greenbank burned a CD of the calls and gave it to the *Chief* (CT: 5237, 5246-47; *9/10/ 2020 Trs*, 56:20-57:10), who: **(A.** Listened to the calls; **(B.** Burned a copy of the CD for himself; and **(C.** Placed a copy of the CD into evidence (*8/5/2020 Trs*, 42:25-43:23).[2]

The *Chief* testified he was **NOT** permitted to access GTL calls online (*8/5/2020 Trs*, 41:13-15, 63:14-64:6), and absolutely did not listen to any calls made to an attorney (*8/5/2020 Trs*, 49:13-50:4).

---

1. The defense maintains that this redacted email contains defense strategy, as it was sent during the investigation phase after execution of the search warrants, but the court refused to direct it be unredacted.

2. Once the defense accuses the government of possessing privileged material, it has an affirmative duty to have the material viewed by a "taint-team" to filter out anything protected by privilege (**In re Grand Jury**, 454 F.3d. 511, 522-523 (6th Cir. 2006) and **United States v. SDI**, 464 F.Supp.2d. 1027, 1037-38 (D. Nev. 2006)); and **United States v. Pedersen**, 2014.US.Dist.Lexis.106222, Pg.88-89 (D. Oregon 2014) (taint and filter teams employed to review privileged *Securus* calls). Here, the prosecution team has possessed the privileged attorney-client recordings criminally eavesdropped in violation of PC-636 (a felony) for nine (9) years, and have done nothing.

The GTL audit records *later* showed the *Chief* eavesdropped on eight (8) calls made to an attorney in violation of PC-636 (a felony). The calls are in evidence, and the *Chief* retained a copy (*8/5/2020 Trs*, 38:9-39:3, 42:7-9, 99:1-6).

The *Chief* testified that he eavesdropped on twenty (20) calls made to a defense investigator, because: **(A.** he could; **(B.** "nobody said it was illegal"; and **(C.** "there were no penal codes governing me." (*8/5/2020 Trs*, 85:24-86:8). Penal Code 632 criminalized the investigator eavesdroppings. The *Chief* eavesdropped on two calls made to the public defender's office (CT: 5271, 5274), and one call to Pet.'s court appointed attorney James McGee (a former prosecutor). The *Chief* testified that he had a ***duty*** to listen to the call **one minute and fifteen seconds *after*** the call was answered saying "law office" to ensure: **(A.** the law office wasn't criminals; **(B.** the legal assistant was not Pet,'s girlfriend; and **(C.** to hear the name of the attorney (*8/5/2020 Trs*, 103:1-6, 104:1-12). The *Chief* **never** notified the defense, and testified that he destroyed the call and emails thereof (*8/5/2020 Trs*, 25:27-26:7, *10/15/2020 Trs*, 93:1-94:4).[3]

84 days into an IAD investigation against the *Chief* (for the privileged calls), DDA Poston transmitted a letter to IAD ordering them to halt their investigation of the *Chief* (CT: 5321). Poston then filed a motion for the court to review the investigator calls *in camera*, and make an order protecting the call's privileged status (CT: 5214-22). Supervising Judge Dwight Moore issued an order directing the People to: **(1.** Produce all jail calls to the defense; and **(2.** Destroy all investigator calls in the possession of the People (CT: 5300). Apparently, neither IAD nor the court knew of the recorded attorney-client calls, that were not subject to the order.

Poston placed the *Chief* in charge of carrying out the order (*8/5/2020 Trs*, 24:9-16), despite the obvious conflict of interest. ***No calls were produced to the defense*** (*8/5/2020 Trs*, 19:12-20:17). The *Chief* then used the order to **destroy**: **(1.** The IAD evidence against him (*8/5/2020 Trs*, 87:2-13, 89:20-23); **(2.** Notes he made of the privileged calls (*8/5/2020 Trs*, 17:16-18:3); **(3.** Calls in the possession of *Securus* in Texas (*8/5/2020 Trs*, 24:9-25); and **(4.** Emails directing *Securus* to destroy the calls (*8/5/2020 Trs*, 94:26-95:10). When asked if the intent of the order was to destroy the IAD evidence against him, the *Chief* refused to answer invoking the *Peace Officer Bill of Rights* (*8/5/2020 Trs*, 88:28-89:6).[4]

Testimony established that the People made unfair use of the appropriated trial strategy at the nine day preliminary hearing (*8/5/2020 Trs*, 120:3-134:13).[5]

---

3. Covering up the willful destruction of evidence raises a presumption that the disclosures would have been damaging (**Packing Co. v. Arkansas**, 212 US 332, 350-51 (1909)). Any member of the prosecution team who receives "material that clearly appear to be protected by attorney-client privilege", has a duty to: **(1.** "refrain from examining the material"; and **(2.** "must immediately notify the party entitled to the privilege" (**O'Gara Coach LLC v. Ra**, 30 Cal.App.5th 1115, 1127 (2019)). No showing of misuse is needed to recuse (*Id*, at 1128-29).

As a prosecutor is deemed to have imputed knowledge of they're prosecution team, the prosecutor's here (supervising prosecutors Natasha Howard and Doug Poston) is deemed to have knowledge of Pet.'s defense trail strategy (**Gigleo v. United States**, 405 US 150, 153 (1972); **In re Brown**, 17 Cal.4th 873, 879 (1998) and **In re Charlisse**, 45 Cal.4th 836, 840-41 (2011)).

(c. Stanton Claim; People Precluded Hearing under *Franks v. Delaware*, 438 US 154 (1978):

None of the search warrant material were part of the record on appeal. The "Bate Stamped Record" ("BSR") submitted with the **Staton/Franks** claim "***disappeared***" in the lower court record. Therefore, Pet. requested the COA take judicial notice of the BSR in mandate petition (S271624/B315900).

The search warrant affidavits were oral, based upon eavesdropped jail calls. Although Detective Chamberlain advised the court that the search warrant was related to the misdemeanor arrest (BSR: 3:1-4:18), it was not issued in that misdemeanor case, and "vanished" for six years.

Between March 19, 2015 and April 10, 2015, Detective Chamberlain sought search warrants from Greenbank. These audio recordings were not filed in the misdemeanor case (BSR: 116-123) as mandated by law (Idaho Code sec. 19-4404). For over six years, the four search warrant affidavits had no court case number; guaranteeing they would be virtually impossible to locate, because the search warrants were tactically obtained outside of the criminal case (to circumvent the intent of the statute), to hide them.

Although Pet. was statutorily entitled to a transcript of the search warrant hearings (Idaho Code 19-4404; Penal Code 1526(b)), his public defender in Idaho made three unsuccessful attempts to locate them (BSR: 133). Greenbank's emails to the *Chief* were explicit that he did everything for the benefit of the People here:

---

4. See **Whetherford v. Bursey,** 426 US 545, 558 (1977)("communication of strategy to the prosecution ... [v]iolates the Sixth Amendment"); **Barber v. Muni Court**, 24 Cal.3d. 742, 759 (1979)(dismissal required after deputy who invaded defense camp); and **United States v. Morrison**, 449 US 361, 366 (1981) (dismissal required when there is a threat of use); **Marrow v. Superior Court**, 30 Cal.App.4th 1252, 1262 (2nd App.Dist.1994)(it "shocks the conscience" were prosecutor orchestrates eavesdropping mandating dismissal); **People v. Suarez**, 10 Cal.5th 116, 182 (2020)(same) and **People v. Zapien**, 4 Cal.4th 929 (1993)(dismissal required where police destroy privileged eavesdropping absent production).

5. The *Chief* admitted that: **(1.** He did his own legal research on a material suppression issue seven (7) weeks in advance of the issue being raised for the first time by the defense, admitting sharing his research with the prosecutor, and could not explain how he knew to do this research in advance of the issue being raised for the first time (*8/5/2020 Trs*, 120:3-125:26, 129:15-134:13); and **(2.** His testimony changed (from the San Bernardino case to the Los Angeles case) on material issues that were discussed in the privileged phone calls (*8/5/2020 Trs*, 129:15-134:13).

"They've ripped about 11k out of one safety deposit box and they are on their way to the next one ... [then] they are headed upto the mountain to tear up the guy's house." "***Unlikely that we will take the case here***" "In the end, ***we're gonna need to get everything to you guys for your cases.*** Typically, what I usually do is have the jurisdiction that wants the stuff get a search warrant for their court describing everything I've stolen here." (BSR: 91).

"***Feds are OK with us transferring everything we took with search warrants to you.***" (BSR: 92).

"Looking at what ***we*** went after in ***our*** warrants, and looking at the property receipts, is there ANYTHING else you could think of that ***we*** could try to go after with another search warrant? ***My judge isn't too happy with this guy, and will likely sign off on anything with a scintilla of PC*** [probable cause]. Just let me know?" "Think otside the box and give me jurisdiction and a smidgen of PC and I'll search it. Happy to help." "Overall, ***it really doesn't matter to me as I am just trying to grab anything I can for whomever is going to prosecute.*** ... I'm working on sniffing out some more areas that are apparently ripe for a search. ***If you don't want postal to get involved, let me know and I'll find a different was to skin a cat. Or tell me to stop skinning and I will.***" (BSR: 96-97).

Greenbank eavesdropped on attorney-client calls (CT: 5250-51), and then emailed the *Chief* to expedite extradition, because Pet. requested the search warrant affidavits (CT: 5285-87). The explanation of the urgency was also ***redacted*** (CT: 5285), yet it caused the *Chief* to secure a Sheriff Dept. jet within two days to extradite Pet. (CT: 5289), before the warrants could be challenged in Idaho. As Pet. had not yet ordered the oral warrant affidavits, this information could only have come from the privileged attorney-client calls.

Greenbank and elected prosecutor Louis Marshall both eavesdropped on a call Pet. made to the clerk of the Idaho Supreme Court, advance a hearing for an emergency stay of extradition to challenge the search warrants in Idaho (CT: 5238-39; *9/10/2020 Trs*, 18:12-18). Pet. was extradited two hours before the hearing.[6]

Yet the People took the position that they can direct a law enforcement agency in another state to conduct searches, and they can benefit from the fruit of those searches, yet they do not have to comply with Idaho Code 19-4404, nor Penal Code 1526(b).

At the prelim, Pet. was unable to challenge search warrants that seized over 95% of evidence in the State's case (at the prelim suppression hearing), because the prosecutor claimed they didn't exist.

---

6. The Telemate audit records show Marshall listened to the call 30 minutes after Greenbank, who listened to it a second time after Marshall. This creates a reasonable inference that Greenbank was seeking opinion or advise from Marshall.

The prelim court harshly reprimand the People for withholding Idaho discovery (*8/3/2018 Trs*, 59:1-63:23):

> "**The Court is very concerned. So you may think this is *gamesmanship*, but the court is very concerned because it seems that you have an investigative agency. You have somebody who you indicated is going to be a witness, but your're indicating you're not obligated to turn over ... what is in the possession of that agency, even though that agency is part of your investigation.**" (*8/3/2018 Trs*, 59:1-10).

The Court ORDERED the People to produce discovery from Idaho (*8/3/2018 Order*, at 11:7-8). Yet this order and transcript is also missing from the record here.

In Sep. 2020, Greenbank testified that he has the affidavits, and the prosecutor NEVER requested them from him (*9/10/2020 Trs*, 69:6-16). Pet. then requested the affidavits, and the People refused to produce them. The pretrial court held the People didn't have to produce them, because they have no control over Idaho authorities (*10/15/2020 Trs*, 55:16-56:6). Greenbank had executed search warrants seizing over 95% of the evidence in the criminal case (Defense Prelim Exh 16-20). This warrant was amended four (4) times through April 10, 2015, and served on six (6) different locations.

Greenbank sought a warrant for: **(1. "*whatever he was doing with the bank account here*."** (BSR: 6:16-21); and **(2. "*whatever activity he's involved in*."** (BSR: 10:2-5); as it relates to the misdermeanor "investigation of the misappropriation of personal identifying information, pursuant to Idaho Code 18-3126." (BSR: 4:28-5:3).[7]

Chamberlain sought to search the house of Aryani Maurer ***solely*** because Chamberlain testified that he ***somewhat*** believed Pet. lived with Maurer, without providing any evidence thereof (BSR: 10:6-13). Yet Chamberlain heard seven (7) statements in recorded jail calls (he acknowledged listening to prior to the hearing) that clearly suggested Pet. did not reside at Mourer's residence.[8] Greenbank, the questioner, heard five such statements (BSR: 52:27-53:3, 53:8-10, 53:26-27, 54:1-4, 56:7-9).

---

7. The Los Angeles Superior Court twice issued a mandate for the return of money illegally seized from that Columbia bank account (PTV9: 29:24-30:5; 9/13/2018 *Minute Order* at Pg.5; *4/5/2019 Trs*, 12:6-21). "We have expressly rejected the notion that probable cause to belief one has committed a crime necessarily provides probable cause to a search of his residence." (**Bouch v. State**, 143 P.3d. 643, 649 (2006)).

8. **Maurer:** Okay, and then I took the cat and everything. And tomorrow I'm going to pick up food and you're dress as long as I can. I'm gonna pick up all the stuff. Your stuff over there. (BSR: 32:5-7). **Maurer:** I'm gonna pick up the food. And now I pick up the cat food. The cats are at ***my house***. (BSR: 34:18-19). **Maurer:** ***I going back to your house.*** (BSR: 37:18-20). **Maurer:** ***I then I come to your house*** and I cry and I don't know. I would good memories (BSR: 42:7-8). **Maurer:** [T]omorrow ... ***I'm going to your house to pickup stuff*** (BSR: 45:9-10). **Maurer:** And then. ***Vacuum your house***. Which one your vacuum? You have to vacuums. Which one is yours? I'm going to take it back with me [to my house]. (BSR: 46:23-24). **Maurer:** And the ***you have to let me know what company for your electric.*** I have to call to cancel it? (BSR: 14:8-12).

The Idaho court later acknowledged the mistake: "***we were*** [just] ***assuming perhaps his house was the house on Main Street***." (BSR: 20:2-3).

After a 2021 search of the clerk's office yielded the affidavits stored in a box (containing no case number), the clerk altered the docket in the misdemeanor case to include the affidavits (BSR: 130), that was listed in the docket 8 days later (BSR: 116-123).

On the day of trial, the People conceded to withholding the search warrant affidavits in bad-faith that prevented Pet. from challenging them at his prelim suppression motion; but asserted that Pet.'s only remedy was a ***Franks*** hearing in the trial court under PC-1538.5(h) (BSR: 258:9-15). The court agreed, and gave Pet. a choice: **(1.** Proceed with the ***Franks*** hearing; or **(2.** He'd deny the motion (BSR: 291).

In **Cuevas v. Superior Court**, 58 Cal.App.3d. 406, 411 fn.1 (1976), the COA held that a defendant had a different choice. He could: **(a.** insist on his right to challenge the affidavit at the prelim, and the court must set-aside the information (as he did here); or **(b.** he could move to suppress in superior court which would cure the error. Although **Cuevas** was cited, the trial court said the COA in **Cuevas** "got it wrong."

In **Franks v. Delaware**, 438 US 154 (1978), the Supreme Court held that the State's introduction of evidence seized in search warrants ***triggers*** an accused's unequivocal right to challenge the substance thereof, and the People's admission that they deliberately withheld the affidavits in bad-faith to prevent a challenge of warrants (where probable cause did not exist) violated a substantial right.

Covering up search warrant affidavits raises a strong presumption that the disclosures would have been damaging (**Packing Co. v. Arkansas**, 212 US 332, 350-51 (1909)).

(d. Lack of Corpus Delicti, Crimes that Never Occurred & Sentencing Errors:

The People filed a huge multi-jurisdictional case without interviewing any "Judgment Creditors" ("JCs") or "Judgment Debtors" ("JDs") to determine if a crime even occurred. The People filed in bad-faith assuming Pet. would take a plea.

At the prelim, Special Agent David Valdivia testified the key to establishing probable cause was whether the JC assignors endorsed the assignments (PTV7: 33:22-34:11), admitting that most of the JCs and JDs had not been interviewed to determine whether a crime had occurred (PTV1: 103:16-104:3, PTV7: 34:16-35:20, PTV5: 46:17-48:11, 75:22-77:10, 91:5-92:25, PTV8: 14:7-18), and one refused to cooperate (PTV5: 96:1-14). Pet. moved to dismiss for a lack of corpus delicti (PTV9: 30:17-34:4). The court instead bound the case over, then held it lacked jurisdiction to consider corpus delicti (PTV9: 34:23-38:4). On Jan. 19, 2019, Pet. filed a non-stat motion, which was denied on Mar. 1, 2019, and the COA denied review of the mandate petition (CT: 1692-1703; S255370/B296698).

Only **19 out of 41** ("JCs") testified at trial, yet Judge Hall erroneously found Pet. guilty of crimes related to the 41 JCs. In **People v. Schmidt**, 41 Cal.App.5th 1042, 1056-59 (2019), the defendant

fraudulently induced distressed property owners to sign deeds transferring property. The COA held that recording such deeds did not violate PC-115, because the grantors owned the property at issue and could legally convey they're interest to the defendant. The property interest in an assignment can be legally conveyed by far less (**Fink v. Shemtov**, 210 Cal.App.4th 993, 1002 (2012)). Here, the People *knew* that: **(1.** Pet. owned a collection business (**Fink**, 210 Cal.App.4th 993); and **(2.** the first assignor they interviewed (an attorney) told them the assignment was valid, recognizing her signature on the assignment (CT: 1354-56).

There were 28 corporate debtors ("JDs"). Only 12 testified, 16 did not, yet the court found guilt in all counts related to the 28 JDs. The Supreme Court held that if a fraud element contains a "scheme to defraud money or property 'in the victim's hands'" the People ***must*** produce a victim (**Pasquantino v. United States**, 544 US 349, 355 (2005) and **McNally v. United States**, 483 US 350, 360 (1987)). Therefore, these convictions violated clearly defined law of the United States Supreme Court.

Unified Parking testified Pet. had no involvement in they're injury, harm or loss; under heavy *partisan* questioning by Judge Hall (RT: 3002:26-3003:27, 3005:3-22), who erroneously found Pet. guilty and ordered $22,930.23 in restitution (RT: 4855:5-6; CT: 30).[9] *Pickup Stix* testified they had no knowledge of any injury, loss or harm (RT: 2126:3-6) and a former attorney for *Sears* testified that *Sears* doesn't exist as an entity (RT: 2706:3-6), and had no knowledge of what his firm did on *Sears*' behalf (RT: 2708:8-12), yet Judge Hall found guilt and ordered $6,538.61 in restitution (RT: 4855:10; Sentencing Order at Pg.30).

This is the only California prosecution to ever sustain a conviction for: **(1.** PC-115 (counts 5 and 51) where the alleged false instrument did not exist (the People conceding it had been purged); **(2.** PC-115/532 (counts 10-12, 18, 20-22, 35, 45-47, 53 and 55) absent a victim in violation of clearly defined law; and **(3.** PC-532 absent a victim (counts 10-12, 18, 20-22, 35, 45-47, 53 and 55) in violation of clearly defined law of the United States Supreme Court.

"***The purpose of the corpus delicti rule is to ensure that a defendant is not convicted of a crime that never occurred.***" (**People v. Ledesma**, 39 Cal.4th 641, 721 (2006)).

Judge Hall convicted Pet. of 5 counts of PC-115 (counts 58-62) for submitting a writ of execution to the sheriff for service of process under CCP-687.010(a) and 699.530(a) holding that submitting a writ to the sheriff for service of process met the filing requirement under PC-115(a) (RT: 4208:1-8), when the statute states the writ is not "filed" and must be returned to the court (CCP-699.560(a), and ***the Chief testified that all writs were returned to the court*** (RT: 643:.-25, 655:1-12), Pet. was convicted for crimes that never occurred.

---

9. People v. Perkins, 109 Cal.App.4th 1562, 1571 (2003)(questioning by court sought to amplify prosecution's case that amounted to prejudicial misconduct).

Judge Hall violated the double jeopardy clause by convicting Pet. for: **(1.** two counts of PC-115 (count 60-61) for submitting the same writ of execution ("writ"); and **(2.** counts 58-62 for PC-115 *and* attempted theft.

Although not one JD testified to any loss attributed to Pet., Judge Hall held: Pet. owned $101,883.73 in restitution (RT: 4854:21-4855:12) to JDs never named in the complaint, identified or testified at trial. Judge Hall then held the $100,000.00 loss precluded probation (RT: 4830:20-28), and required the court to impose PC-186.11 enhancements (Sentencing Order: 26).

Glen County civil division clerk testified that they still possessed $4,425.15 from the Petco levy and Petco did not want the money back (RT: 1851:11-16). As the clerk was leaving the stand, Judge Hall ordered the clerk to turn the money over to the court (which is not reflected in the transcript), yet Pet. was ordered to pay this restitution.

Although the *Chief* was only involved in five counts of the 62 counts (RT: 711:16-28), Judge Hall ordered the *Chief* (the criminal eavesdropped who destroyed material evidence) to divi-up Pet.'s $60,000.00 to the victims (not named in the complaint, not identified, who never appeared at trial) as he sees fit (RT: 4855:13-4856:8), then failed to deduct the $60,000.00 from the restitution order.

The cumulative effect of the multiple court errors denied due process and rendered the trial fundamentally unfair (**Chambers v. Mississippi**, 410 US 298, 302-03 (1973) and **Montana v. Egelhoff**, 518 US 37, 53 (1996)).

(e. Establishing A *Nguyen/Hurles* review:

A large portion of the lower court is missing. Failure to supplement the record "cannot be ascribed to trial strategy and tactics." (**Hoots v. Allsbrook**, 785 F.2d. 1214, 1220 (4th Cir. 1986)) "***because counsel can hardly be said to have made a strategic choice when s/he has not yet obtained the facts which such a decision could be made.***" (**United States v. Gray**, 878 F.2d. 702, 712 (3rd Cir. 1989)). Yet the COA refused to appoint an attorney who would supplement the record and bring highly substantial claims.

"Ineffective Assistance of Appellate Counsel" ("IAAC") is conclusively established where s/he failed to raise: **(a.** "potentially meritorious" claims; or **(b.** one's "stronger than those present on appeal." (**Nguyen v. Curry**, 736 F.3d. 1287, 1291-97 (9th Cir. 2013) and **Hurles v. Ryan**, 752 F.3d. 768, 783 (9th Cir. 2014)).

Here, IAAC brought none of these claims. As an appeal is a "substantial right", there must be a procedure where an appellant can submit a showing to the COA that:

(1. A good portion of the lower court record is missing from the appeal record, and appellate "***counsel can hardly be said to have made a strategic choice when s/he has not yet obtained the facts which such a decision could be made.***" or

(2. The claims not brought are "potentially meritorious" or "stronger than those present on appeal."

CONCLUSION

As a rich appellant can hire an attorney to bring his substantial claims on appeal, but a poor appellate is at the mercy and whims of his appointed appellate attorney, a procedure should be established to ensure the substantial right of a poor appellant (to have his substantial claims raised in his direct appeal) does not become meaningless.

VERIFICATION

Petitioner/Appellant declares the foregoing is true and correct under penalty of perjury under the laws of the State of California. Executed this 16th day of June 2024 in Vacaville California.

David Fink, Appellant/Petitioner in Pro-Per

CERTIFICATE OF INTERESTED PARTIES

Per CRC-8.504, Petitioner is unaware of any interested parties.

CERTIFICATE OF WORD COUNT

Per CRC-8.504, this 11 page petition contains no more than 3,500 words.

PROOF OF SERVICE BY MAIL

BY PRISONER "IN PRO PER"

I hereby certify that I am over the age of 18 years of age, that I am representing myself, and that I am a prison inmate.

My prison address is: California State Prison – Solano

Housing: A2-121

P. O. Box 4000

Vacaville, California 95696-4000

On the "*date*" specified below, I served the following document(s) on the parties listed below by delivering them in an envelope to prison authorities for deposit in the United States Mail pursuant to "Prison Mailbox Rule":

Case Name: Fink v. COA Case #: _____

Document(s) Served: _____

Petition for Review

The envelope(s), with postage fully pre-paid or with a prison Trust Account Withdrawal Form attached pursuant to prison regulations, was/were addressed as follows:

Judicial Counsel of Cal.
455 Golden Gate Avenue
San Francisco Ca. 94102

California Court of Appeal
300 S. Spring Street, 2nd Fl.
Los Angeles Ca. 90013

Arron Scheachter
Attorney at Law
POB-270104
Tampa Fl. 33688

Natasha Howard
Deputy Attorney General
300 S. Spring St, Suite-1702
Los Angeles Ca. 90013

I declare under penalty of perjury that the foregoing is true and correct. This declaration was executed on 6/16/2024 in Vacaville, California.

"*date*"

Signature: David Fink

Printed Name: David Fink

Court of Appeal, Second Appellate District, Division Seven - No. B332052

S282327

IN THE SUPREME COURT OF CALIFORNIA

En Banc

DAVID FINK, Petitioner,

v.

SUPERIOR COURT OF LOS ANGELES COUNTY, Respondent;

THE PEOPLE, Real Party in Interest.

The petition for review is denied.

GUERRERO
Chief Justice

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

DAVID FINK, Petitioner, v. THE SUPERIOR COURT OF LOS ANGELES COUNTY, Respondent.	B332052 (Super. Ct. No. BA435472) (Larry P. Fidler, Judge) ORDER
THE PEOPLE, Real Party in Interest.	

THE COURT:

The court has read and considered the petition for writ of mandate filed on September 26, 2023. Petitioner seeks relief relating to conditions of confinement, including issues with his medical care while in prison. The petition is denied without prejudice. (Cal. Rules of Ct., rule 8.385(c)(1)(B).) Petitioner is incarcerated in Solano County, which is in the First Appellate District. The proper vehicle for relief relating to conditions of confinement is to file a petition for writ of habeas corpus in the

county of confinement. (*In re Gandolfo* (1984) 36 Cal.3d 889, 903, fn. 6.)

Petitioner seeks to replace his appointed appellate counsel. He has not established good cause to do so. His request is denied.

The petition is denied in all other respects.

The clerk is directed to transmit a copy of the petition and this order to Aaron J. Schechter, petitioner's counsel in appeal number B317362.

PERLUSS, P. J. SEGAL, J. MARTINEZ, J.

APPENDIX-A:

Eavesdropping orders of Judge Hall that go far beyond "objectionably unreasonable" ("OBU") to the point of obsurdity establishing embroilment exceeding partisian advocacy amounting to "fraud on the court."

(1. Held: The eavesdropping motion was untimely per CRC-4.111(b), in that it was not submitted at least 10 days before trial (CT: 5412-13).

BOU: There was no "10 days before trial" as the pandemic continued the trial (over objection) for over a year. On Oct. 15, 2021, the court advised the parties that the supervising judge informed him there would be another continuance, then suprised the parties on Oct. 21. 2021 by stating the trial would start the following day. On Oct. 22, 2021, the limine motion was filed (CT: 5228), and all papers were in by the 26th (CT: 5270, 5334). Trial started two days later (CT: 5347). The limine motion was filed 17 days before the ruling, and all papers were filed 12 days before the ruling.

(2. Held: Pet.'s one page declaration was "personal knowledge of what ... law enforcement [was doing] at a remote location" and "such a declaration would be untruthful." (CT: 5414).

BOU: Pet.'s one page declaration stated: (a. the eavesdropped calls were made to attorney law offices and sought consultations about the criminal case; (b. there were no warning advisements on the calls that would have alerted Pet. the calls were being recorded; and (c. deputies provided Pet. with jail policy (See CT: 3887-3888) stating that privileged calls could be made from the housing unit (CT: 5397). **Either Judge Hall never read the declaration (speculating what was on it) or intentionally falsified what was on it.**

(3. Held: The declaration must be stricken, because: (A. it was untimely; and (B. The People had a right of confrontation (CT: 5413).

BOU: First: The declaration was not untimely (See BOU-1); Second: The People had no right to confront Pet. as to the content of the attorney-calls, or the jail policy in their possession. Third: Cal.Const.Art.1 Sec.28(d) required the court to consider all relevant evidence. Fourth: An evidentiary hearing should be held so Judge Hall can explain his reasons for falsifying the contents of the declaration.

(4. Held: It would deny a defense request for the court to listen to the recorded GTL/Telmate attorney-client calls (to confirm that no warning advisement was played that would have alerted Pet. the calls were being recorded) because there was no foundation as to how the calls were recorded (CT: 5377-5378, 5415).

BOU: The prosecutor and Chief both testified how they recorded the calls onto a CD, which was provided to the defense (9/10/2020 Trs, 56:20-57:10, 8/5/2020 Trs, 42:25-43:23). The People still possessed the privileged recordings (8/5/2020 Trs, 42:25-43:23, 38:9-39:3, 42:7-9, 99:1-6), so could have reviewed the People's copy if he didn't trust defense counsel. Cal.Const.Art.1, Sec.28(d) mandated the court to consider the recordings.

(5. Held: "Telephone calls to the pro-per module ... are not monitored or recorded." (CT: 5416(8)).

BOU: A Securus audit record of over 100 per-per calls to Pet.'s court appointed investigator from other pro-per inmates from the law library [there is no pro-per unit] were all none-the-less recorded, including one privileged call Pet. made (CT: 4415 "David Gaynor [second from the bottom dated 12/3/2015]; CT: 5267, 5271-72).

(6. Held: "All calls ... from the jail inmate telephones begin with a warning the calls were being recorded." CT: 5417(10)).

BOU: First: The Chief violated a court order and destroyed all the Securus calls absent production (8/5/2020 Trs, 25:27-26:7, 10/15/2020 Trs, 93:1-94:4). Second: Courts are not permitted to speculate a waiver of the Sixth Amendment as to whether the warning advisement was played (See Romero v. Securus, 331 FRD 391, 411 (S.D. Cal. 2018)(People must produce the recording or forfeit whether there has been a Sixth Amendment waiver)). Third: Numerous courts have found that Securus routinely records attorney-client calls in the non-record status; meaning no warning advisement was played but it was none-the-less recorded anyway (See United States v. Carter, 429 F.Supp.3d. 788, fn.281 (D. Kan.2019)).

(7. Held: Securus calls in the non-record status are not recorded (CT: 5417(12)).

BOU: In United States v. Carter (429 F.Supp.3d. at fn.289), the court found that 7,914 attorney-client privileged calls in the non-record status were none-the less recorded.

(8. Held: The Chief "inadvertently listened to part of one call to a non-listed attorney's office." (CT: 5417(13)).

BOU: The Chief testified that he had a duty to listen to the call ~~one~~ minute and 15 seconds after the call was answered saying "law office" to ensure: (A. the law office was not criminals; (B. the legal assistant was not Pet.'s girl-friend; and (C. to hear the name of the attorney (8/5/2020 Trs, 103:1-6, 104:1-12). We don't know what he listened to because he never notified the defense and destroyed the call.

(9. Held: The Chief terminated the "call when it was answered by a receptionist who identified it as a law office." (CT: 5417(14)).

BOU: See BOU-8. Pet.'s attorney James McGee (a former prosecutor) submitted a declaration stating that is was Ms. Patterson his legal assistant who answered the phone, and privilge extends to her (CT: 5310).

(10. Held: The Chief only eavesdropped on a few calls Pet. made to his investigator (CT: 5417-18(16)).

BOU: The Chief testified he: (A. made notes of six (6) investigator calls (CT: 5277-78 [Chief's notes of investigator calls]; and (B. eavesdropped on 20 investigator calls (8/5/2020 Trs, 85:24-86:3), which is reflected in the Securus audit records (CT: 5267, 5371-76).

(11. Held: The Chief "NEVER listened to a jailhouse telephone call that connected to any attorney, including Idaho attorneys." (CT: 5418(17)).

BOU: The GTL audit records show the Chief eavesdropped on eight (8) calls made to attorney Doug Phelps (CT: 5267-70). The Chief testified

that he listened to the Idaho calls recorded by prosecutor Greenbank (8/5/2020 Trs, 42:25-43:23), which contained numerous calls to attorneys (CT: 5230-65), including attorney Doug Phelps.

(12. Held: The DDA is immediately notified if a privileged call is made to an investigator, which occurred here (CT: 5418(19)).

BOU: There is no testimony or evidence to support that statement. DDA Doug Poston declared that the Chief bragged to him of the contents of one privileged call made to Pet.'s investigator six months earlier, and he took no action and did nothing (CT: 5318).

(13. Held: The Idaho jail calls "contain a warning that they are being monitored." (CT: 5418(22)).

BOU: The court possessed the calls, but refused to listen to them to determine if an advisement was played, violating Cal.Const.Art.1, Sec. 28(d), then speculated in violation of clearly defined law (Romero v. Securus, 331 FRD 391, 411 (S.D. Cal. 2018)(People must produce recordings) and United States v. Carter, 429 F.Supp.3d. 788, 793-98 (D. Kan. 2019)(even if played the Securus warning advisements do not amount to a Sixth Amendment waiver)).

(14. Held: Det. Chamberlain never eavesdropped on a jail call made to an attorney (CT: 5418(24)).

BOU: The Telmate audit records clearly reflect that Chamberlain did eavesdrop on one call made to an attorney (CT: 5230, 5248).

(15. Held: Prosecutor Greenbank did not have access to, nor eavesdrop, on any call made to an attorney (CT: 5419(26)-(27)).

BOU: The court never examined the attorney-client calls submitted to it for review (Cal.Const.Art.1, Sec.28(d)), disregarded the verified Telmate records showing Greenbank eavesdropped on 32 attorney-client calls (CT: 5230-65). Greenbank testified that he accepted the Telmate records as accurate (See 9/10/2020 Trs, 54-65).

(16. Held: The Chief NEVER made unfair use of the privileged calls made by Pet. (CT: 5420(35)).

BOU:

That is not what the audit records proved! The *Chief* admitted that: **(1.** He did his own legal research on a material suppression issue seven weeks in advance of the issue being raised for the first time by the defense, admitted sharing this research with the prosecutor, and could not explain how he knew to do this research in advance of the issue being raised for the first time; and **(2.** His testimony changed (from the San Bernardino case to the Los Angeles case) on material issues that were discussed in the privileged calls (*8/5/2020 Trs*, 120:3-125:26, 129:15-134:13).

"It would be virtually impossible for [an accused] or the court to [prove] any particular piece of information in the possession of the prosecution was consciously or subconsciously factored into each [prosecutorial] decision[]." (**United States v. Levy**, 577 F.2d. 200, 209 (3rd Cir. 1987) and **Barber v. Muni Court**, 24 Cal.3d. 742, 757 (1979)). Only the prosecution knows what information it stole, and how it intends to use it. An accused can only "guess." (**United States v. Danielson**, 325 F.3d. 1054, 1070 (9th Cir. 2003)). "Even if the witnesses do not divulge the information to the prosecutor, the witness will be 'in a position to formulate in advance answers to anticipated questions, and even shade their testimony to meet expected defenses.'" (**Barber v. Muni Court**, 24 Cal.3d. 742, 757 (1979) *quoting* **Weatherford v. Bursey**, 429 US 545, 564 (1977)).

(17. Held: "There is no evidence that any law enforcement officer even listened to any jailhouse telephone call to any attorney." (CT: 5420 (35)).

BOU: In addition to the Chief and Chamberlain, the Telmate audit records show that a call to an attorney was eavesdropped by R. Udrizar (CT: 5246).

(18. Held: Evidence "beyond any doubt [show] that privileged calls were not recorded or monitored." (CT: 5246).

BOU: As the evidence is so absolutely overwhelming, the absurdity of the order qualifies as "false evidence that was deliberately fabricated by the government." (Devereaux v. Abbey, 263 F.3d. 1070, 1074-75 (9th Cir. 2001)) that meets the "shocks the conscience" doctrine (Ibid), and easily qualifies as "fraud on the court." (Trendsettah v. Swicher, 31 F.4th 1124, 1134 (9th Cir. 2022)).

(19. Held: San Bernardino had a system in place to preclude monitering or recording of privileged calls (CT: 5420).

BOU: There is no evidence to support this statement, and the audit records of GTL and Securus show that Pet.'s calls to attorneys and his court appointed investigator were routinely recorded (CT: 5266-78). There are literally dozens of opinions that found Securus calls in the non-record status are routinely recorded (United States v. Carter, 429 F.Supp.3d. at fn.289 (7,914 attorney calls in non-record status were none-the-less recorded).

(20. Held: Pet. had a choice to make unmonitored calls from the law library or monitored calls from the housing unit phones where privileged is waived (CT: 5421-22).

BOU: The calls made from the law library were recorded anyway, including a call Pet. made to his investigator (CT: 4407-21, 4415). Policy prohibited the monitoring or recording of privileged calls made from the housing unit phones (CT: 3887-3888).

(21. Held: Two investigator calls may have been monitored, but there was no "benefit" to the prosecution, only to the defense. The other investigator calls contained "judge shopping." (CT: 5224-25).

BOU: The Chief testified that he took notes of six investigator calls, and eavesdropped on 20 of them (8/5/2020 Tr, 85:24-86:3, CT: 5277-78, 5271-75, 5267). None of the notes suggested that Pet. was "judge shopping" (CT: 5277-78), and its reprehensible for a court to suggest that the accused "benefitted" from criminal eavesdropping by the People.

(22. Held: There was no evidence that anything was passed to the prosecution (CT: 5225).

BOU: Doug Poston declared that the *Chief* bragged to him the content of one privileged call (CT: 5318). Supervising prosecutor Shane Greenbank eavesdropped on 32 calls made to attorneys (CT: 5230-64). Elected prosecutor Louis Marshal eavesdropped on one privileged call to the Supreme Court (CT: 5236). The Chief assisted supervising prosecutor Natasha Howard through out the case, sitting next to her at the nine day prelim and at trial. Evidence shows the prosecutor "benefitted" (*8/5/2020 Trs*, 120:3-125:26, 129:15-134:13). The prosecutor has "imputed knowledge" **Gigleo v. United States**, 405 US 150, 153 (1972); **In re Brown**, 17 Cal.4th 873, 879 (1998) and **In re Charlisse**, 45 Cal.4th 835, 840-41 (2011)).

(23. Held: As there was a court order to destroy the calls, and Pet. was provided with a copy of those calls, there was no violation under People v. Zapien, 4 Cal.4th 116 (1993) (CT: 5225).

BOU: The *Chief* testified that: ***No calls were produced to the defense*** (*8/5/2020 Trs*, 19:12-20:17). The *Chief* was under IAD investigation for his criminal conduct in eavesdropping on the investigator calls. The *Chief* used the order to **destroy**: **(1.** The IAD evidence against him (*8/5/2020 Trs*, 87:2-13, 89:20-23); **(2.** Notes he made of the privileged calls (*8/5/2020 Trs*, 17:16-18:3); **(3.** Calls in the possession of *Securus* in Texas (*8/5/2020 Trs*, 24:9-25); and **(4.** Emails directing *Securus* to destroy the calls (*8/5/2020 Trs*, 94:26-95:10). This is a clear **People v. Zapien** violation (under the **Trombetta/Youngblood** doctrine), as the defense w clueless as to the extent of the criminal eavesdropping; preventing the defense from proving unfair use.

(24. Held: The warning advisements on the calls precluded a Sixth Amendment violation (CT: 5421).

BOU: See BOU-13.

After a mandate petition was filed depicting the incongruity and reprehensible order (B316900/S271624), Judge Hall retaliated against Pet. for his exercising his right to access the courts, by the following orders and conduct:

(25. Held: The mandate petition contained perjury (RT: 4819:4-23, 4820:23-24) without any explaination of how or in what manner.

(26. Judge Hall altered the superior court record to remove the three mandate petitions filed while he was judge [B315900/S271624, B316229/S271866, S271496], and the Bate Stamped Record submitted in support of his Stanton/Franks motion and petition (B315900/S271624), while all petitions filed while Judge Fidler was judge are contained in the court record.

(27. Held: The petition contained "a pattern of deceptive behavior" (RT: 4820:17-22, CT: 5759).

(28. Held: Pet.'s pro-per conduct is the same as his criminal conduct (RT: 4820:26-4821:1).

(29. Held: If released, Pet. would endanger the courts (CT: 5770).

(30. Held: Pet. violated Judge Fidler's 11/3/2020 order revoking his status by filing the petitions (RT: 4820:3-16), inappropriately relying on In re Bennett, 31 Cal.4th 466, 476 (2003)(habeas inmate represented by habeas counsel cannot proceed pro-per along side of habeas counsel), and he lacked standing to judicially determine that the COA and Supreme court "got it wrong" by filing and accepting the petitions.

(31. Judge Hall lacked authority to deny Pet.'s habeas petition after sentencing on Aug. 10, 2022 (Keating v. Superior Court, 45 Cal.2d. 440, 444-45 (1955)(judge who finds defendant committed perjury precluded from all rulings) and People v. Williams, 156 Cal.App.4th 949, 955-58 (2007)(same)).

APPENDIX-B:

Verdict and sentencing orders of Judge Henry J. Hall that go far beyond "objectionably unreasonable" to the point of obserdity establishing embroilment exceeding partisian advocacy amounting to fraud on the court:

(a. Verdict Errors:

(1. Held: There is "no doubt" "Fink was behind this" because his name appears on a fictitious business name statement (RT: 4210:5-11).

Error: The fictitious business name filing was that of Fink's legitimate business Ca.JudgmentCollections.com that was not, in any way, linked to criminal wrongdoing (RT: 3725:6-9).

(2. Held: If postal witness Gail Boyle was emailed Fink's photograph prior to her six-pack identification of him, he would suppress the identification (RT: 617:3-618:8).

Error: After Boyle testified the Chief emailed her Fink's booking photo that was the same photo in the six-pack, immediately after Fink's arrest (RT: 1209:10-16, 1210:22-28, 3939:26-3940:20), Judge Hall failed to strike her identification (RT: 1205:3-10) in violation of People v. Bisongni, 4 Cal.3d. 582 (1971)(reversed in-court-identification after show-up without determining if the ID was tainted) and Gilbert v. Cal., 388 US 263, 272 (1967)(same).

(3. Held: Fink was guilty of PC-115 (filing a false instrument) for counts 5 and 51 after the People could not produce the alleged false instrument, admitting it had been purged (RT: 988:6-990:3, 990:4-28).

There was no evidence or testimony to sustain these counts. Even the law enforcement witnesses testified that the court summaries were not accurate or valid (RT: 1007:25-28).

(4. Held: Fink was guilty of 18 counts where the "Judgment Debtor" ("JD") corporation failed to appear (counts 1, 3, 10-12, 18-22, 27, 35, 41, 45-47, 53 and 55).

Error: This violated clearly defined law of the United States Supreme Court that required the People to produce a fraud victim (Pasquantine v. United States, 544 US 349, 355 (2005) and McNally v. United States, 483 US 350, 360 (1987)).Special Agent David Valdivia testified that these corporate JDs were not even interviewed (PTV7: 32:12-33:15).

This also violated the accused's right to confront his accusers.

(5. Held: Alleged corporate victim (JD) Pickup Stix testified they had no knowldge of any harm, loss or criminality (corpus delicti)(RT: 2126: 3-28), the court still found guilt (count-60).[A1]

A1. Courts are not permitted to rest on mere conjecture or speculation (Jackson v. Virginia, 443 US 307, 319 (1979) and People v. Davis, 57 Cal. 4th 353, 360 (2013)), especially when the burden of proof is "beyond a reasonable doubt."

(6. After JD Unified Parking testified (under heavy questioning of Judge Hall) that Fink's alleged business (USJRU) had no involvement in their injury harm or loss (RT: 3002:26-3003:27, 3005:3-22), Judge Hall found Fink guilty of all Unified Parking counts (19, 23, 36-37 and 50) and ordered Fink to pay $22, 930.23 in restitution (CT: 5783, RT: 4855:5-6).

Error: Clearly, corpus delicti was not established under Pasquantine and McNally.

(7. After a former attorney for Sear's testified: (a. Sear's doesn't exist as an entity; and (b. had no knowledge of what his firm did on Sear's behalf (RT: 2706:3-6. 2708:8-12), Judge Hall found Fink guilty and ordered him to pay $6,538.61 in restitution (CT: 5783, RT: 4855:10).

Error: Corpus delicti was no established under Pasquantine/McNally.

(8. Held: Submitting a "writ of execution" ("writ") to the sheriff for service of process violated the "filing" requirement for a false instrument under PC-115, and convicted Fink of counts 58-62 (RT: 4208:1-8, CT: 5783).

Error: (A. Special Agent David Valdivia testified that the writs were issued by the clerk of the court, and were therefore not fraudulent (RT: 1009:5-16); (B. CCP-687.010(a) and 699.530(a) hold the writ is not "filed" with the sheriff; (C. CCP-699.560(a) provides that the writ must be returned to the court; and (D. the Chief testified that all the writs were in fact returned to the court (RT: 643:3-12, 655: 1-12). Fink was convicted for crimes that never occurred.

(9. Held: Fink was guilty of counts 10-12, 18, 20-22, 35, 45-47, 53 and 55 after the People failed to produce a "Judgment Creditor" ("JC")/ assignor to establish corpus delicti.

Error: (A. Special Agent David Valdivia testified the key to establishing if a crime had been committed layed with whether the JC had endorsed the assignment (PTV7: 33:22-34:11); (B. the first JC/assignor the People contacted was an attorney who advised the People that it was a valid assignment recognizing her signature on the assignment form (CT: 1354-56); (C. 19 out of 41 JCs who testified at trial stated the People never contacted them to even inquire whether a crime had been committed; and (D. a conviction required testimony of the JC/ assignor (People v. Schmidt, 41 Cal.App.5th 1042, 1056-59 (2019)), which can be verbally assigned (Fink v. Shemtov, 210 Cal.App.4th 993, 1002 (2012)).

Error: Failing to produce the JCs violated Fink's right to confront his accusers.

(b. Sentencing Errors that Grossly Exceeded Maximum Possible Sentence

(10. Held: All counts were committed on different dates under PC-654 (CT: 5773).

Error: Even the People's information sho that several counts were committed on the same date (count 1/2, 31/33, 46/47).

Error: The court conducted no PC-654 analysis as to when a crime was committed or concluded pursuant to his "overlapping" PC-654 order ((CT: 5773, RT: 4828:2-4829:11).

(11. Held: If released, "it is a virtual certanty" Fink "will reoffend, probably within days" (RT: 4834:3-4, CT: 5769).

Fink had just completed 314 days on supervised release (1/7/2021-11/17/2021), obeying all laws and rules, has been incarcerated over 9 years with no disciplinary action, and had 20 years of lawful behavior prior to this imprisonment (1992-2012).

(12. Held: Fink "has continued to offend despite several grants of probation and parole" (RT: 4834:8-9, CT: 5770).

Error: Fink has never been on supervised probation, and last completed parole seccessfully over a quarter-century ago.

(13. Held: Fink is a life-long criminal (CT: 5770), with no single period of aberrant behavior (CT: 5773, RT: 4837:19-22), and he is truely the "classic revolving door criminal." (CT: 5771, RT: 4839:24-25).

Error: Before this incarceration, Fink's only period of aberrant behavior was a ten year period from 1982 to 1992. The last 20 years before this imprisonment had been crime-free.

(14. Held: There was an aggravating factor under CRC-4.423(a)(3) in that the JCs "would never be able to collect" they're judgments (RT: 4833:5-7, CT: 5768-69).

Error: (A. 2 JDs testified the assignment caused them to pay the JC (RT: 2725:5-21, 3305:6-8, 3307:25-3308:2); (B. 6 JDs testified they already paid the JC (RT: 1564:4-17, 2725:5-21, 3004:13-16, 3007:17-27, 3617:12-21); (C. 2 JCs were never asked (RT: 1812:8-1813:6, 3609:20-3610:13); (D. 2 JCs testified they could not remember (RT: 2113:9-11, 3648:9-13) and (E. the other 15 JCs testified they already collected they're judgments (RT: 1512:15-21, 1517:7-13, 1808:19-27, 1814:12-16, 1815:19-21, 1821:9-11, 1825:18-23, 2115:9-17, 2402:10-18, 2405:5-6, 2409:7-12, 2702:28-2703:2, 3611:26-28, 3614:8-9, and 3903:8-10). NOONE TESTIFIED THAT THE ALLEGED CRIMINAL CONDUCT PRECLUDED THE JCs FROM COLLECTING THE JUDGMENTS!

(15. Held: After Fink got a lucky "break" in his 2018 San Diego conviction, he committed the crimes here (CT: 5757-58, RT: 4818:12-23).

Error: The crimes here were committed prior to the San Diego conviction in 2012. Is Judge Hall really suggesting that after the 2018 conviction in San Diego, Fink procured a time-machine and travelled back to 2012 to commit the crimes here?

(16. Held: Fink is sentenced to 40 years 4 months.

Error: The attached count chart shows Fink's maximum possible sentence was just 6 years 8 months. Fink currently has credit for over 20 years and has spent over a decade beyond his maximum possible sentence.

(17. Held: Court would impose a 42 year old non-violent strike to double the sentence and run them all consecutive.

Error: Fink clearly fell outside the spirit of the 3 strikes law.

(c. Punitive Forfeiture Orders that Constituted Punishment:

(18. Held: Fink must pay $8,242.73 in restitution to PacBell (CT: 5783, RT: 4855:3).

Error: PacBell, law enforcement and the People all assured Judge Hall that the assignee (presumibly Fink) voluntarily returned the $8,242.73 (RT: 2737:16-2739:13, 3960:5-21, 3983:14-19).

(19. Held: Fink pay $6,538,61 in restitution to Sears (CT: 5783, RT: 4855: 10).

Error: An attorney for Sears testified he had no knowledge what his firm did on Sears behalf (RT: 2708:8-12).

(20. A Glen County civil division clerk testified they still possessed $ 4,425.15 from a levy where the JD did not want the money (RT: 1851: 11-26). As she was leaving the stand, Judge Hall ordered her to turn the money over to the court; yet this order is not reflected in the transcript.

It should have been used for the restitution in this case. Where did it go?

(21. Held: Fink pay $22,930.23 to Unified Parking (CT: 5783, RT: 4855:5-6).

Error: Unified Parking testified under heavy questioning from Judge Hall, that Fink's alleged business (USJRU) had no involvement in their injury, loss or harm (RT: 3002:26-3003:27, 3005:3-22).

(22. Held: Fink owed $101,883.73 in restitution (RT: 4854:21-4855:12, CT: 5783-84).

Error: Not one JD testified that there was any outstanding levy in this case.

(23. Held: The over $100,000.00 loss precluded probation (RT: 4830:20-28).

Error: No JD testified there was a loss.

(24. Held: The $101,883.73 loss required the court to impose PC-186.11 enhancements (CT: 5779).

(25. Held: The court would use $60,000.00 taken from Fink towards the $101,883.73 in restitution (RT: 4855:13-4856:8).

Error: The money was never deducted from the $101,883.73 in restitution, so it looks on paper that Fink's $60,000.00 never existed.

(26. Held: The Chief (who was only involved in 5 counts) could divi-up Fink's $60,000.00 to victims (who never appeared at trial) as he sees fit (RT: 4855:13-4856:8).

Error: (A. The court is prohibited from dispursing of a defendant's property until the judgment is finalized (Stephen v. Toomey, 51 Cal. 2d. 864, 869 (1959)); and (B.

APPENDIX-C:
COUNTS THAT REQUIRE DISMISSAL

Count	Charge	JC Assignor	JD Corporation	Testified?		Reason
1	PC-532	Fabiano	Best Buy	Yes	No	fn.1
2	PC-532	Arencibia	Ralph's	No	Yes	fn.2
3	PC-532	Fucci	Staples	Yes	No	fn.1
4	PC-532	Brown	Imperial Parking	No	Yes	Fn.2, fn.3
5	PC-115	Stewart	Uhaul	No	No	fn.2, fn.4
7	PC-115	Atkins	Swift Transport.	No	Yes	fn.2
9	PC-532	Atkins	Swift Transport.	No	Yes	fn.2
10	PC-532	Enfiajian	Volvo	Yes	No	fn.1
11	PC-532	Luxton	Best Buy	No	No	fn.1, fn.2
12	PC-532	Ramirez	Jack in the Box	No	No	fn.1, fn.2
18	PC-532	Ionescu	Bridgestone	Yes	No	fn.1
19	PC-532	Artolachipe	Unified Parking	No	Yes	fn.1, fn.3
20	PC-532	George	Toys R Us	No	No	fn.1, fn.2
21	PC-532	Alsartavi	Best Buy	No	No	fn.1, fn.2
22	PC-532	Felder	Canon USA	Yes	No	fn.1
23	PC-532	Zelaya	Unified Parking	No	Yes	fn.2, fn.3
27	PC-532	Feng	Hertz	No	No	fn.1, fn.2
30	PC-532	Barnes	JC Penney	Yes	No	fn.2
35	PC-532	Gillissie	Best Buy	No	No	fn.1, fn.2
41	PC-532	Sanchez	El Pollo Loco	No	No	fn.1, fn.2
43	PC-115	Hickel	United Valet	No	No	fn.2
45	PC-532	Hickel	United Valet	No	No	fn.1, fn.2
46	PC-532	Deberardino	GMC	No	No	fn.1, fn.2
47	PC-532	Lough	Petco	No	No	fn.1, fn.2
50	PC-532	Lema	Unified Parking	No	Yes	fn.2
51	PC-115	Fercovich	AMPCO	Yes	No	fn.4
53	PC-532	Fercovich	AMPCO	Yes	No	fn.1
55	PC-532	Feid	Cal. Parking	No	No	fn.1, fn.2
56	PC-532	Beesely	Sears	Yes	Yes	fn.3
57	PC-487	Grand Theft	Counts 58-62			fn.5
58	PC-115	Wilson	Staples	No	No	fn.6, fn.2
59	PC-115	Anderson	Sears	Yes	Yes	fn.6
60	PC-115	Demere	Pickup Stix	No	Yes	fn.6, fn.2
61	PC-115	Demere	Pickup Stix	No	Yes	fn.6, fn.2
62	PC-115	Carter	Staples	Yes	No	fn.6

1. Under clearly defined law of the United States Supreme Court, the People must produce a victim as an element of fraud (Pasquantine v. US, 544 US 349, 355 (2005) and McNally v. US, 483 US 350, 360 (1987)).

2. Under clearly defined California law, to prove an improper assignment requires testimony of the assignor (People v. Schmidt, 41 Cal.App.5th 1042, 1056-59 (2019) and Fink v. Shemtov, 210 Cal.App.4th 993, 1002 (2012)).

3. The JD could offer no testimony to establish an injury, loss or harm. Nor someone's criminality as the cause.

4. The PC-115 instrument was "purged", and the People could not produce it during trial (RT: 988:6-990:3). Count-51 only produced a court summary (RT: 990:4-28) which is inaccurate (RT: 1007:25-28).

REMAINING COUNTS

Count	Charge	JC Assignor	JD Corporation	Is Money Missing?
7	PC-115	Stewart	Swift Transport.	No, fn.7
8	PC-530.5(a)	Stewart	Swift Transport.	No, fn.7
13	PC-115	Zarifpour	Parking Co. of Am.	No, fn.7
14	PC-530.5(a)	Zarifpour	Parking Co. of Am.	No, fn.7
15	PC-532	Glickstein	PacBell	No, fn.7
16	PC-115	Valizadeh	AT&T	No, fn.7
17	PC-530.5(a)	Valizadeh	AT&T	No, fn.7
24	PC-115	Kazanov	Unied Ind. Taxi	No, fn.7
25	PC-530.5(a)	Khazanov	United Ind. Taxi	No, fn.7
28	PC-115	Barnes	PC Penney	No, fn.7
29	PC-530.5(a)	Barnes	JC Penney	No, fn.7
31	PC-115	Fraigun	Nissan	No, fn.7
32	PC-530.5(a)	Fraigun	Nissan	No, fn.7
33	PC-115	Rapoport	AMPCO	No, fn.7
34	PC-530.5(a)	Rapoport	AMPCO	No, fn.7
36	PC-115	Chu	Unified Parking	No, fn.7
37	PC-530.5(a)	Chu	Unified Parking	No, fn.7
38	PC-115	Glicksman	Porsche	No, fn.7
39	PC-530.5(a)	Glicksman	Porsche	No, fn.7
42	PC-532	Gore	Toyota	No, fn.7
48	PC-115	Delmage	Ford	No
49	PC-532	Delmage	Ford	No
52	PC-530.5(a)	Fercovich	AMPCO	No, fn.7

5. This is an attempted grand theft based upon unseccessful levies in counts 58-62. No money was seized (RT: 3387:11-12)., because all 5 levies were rejected for technical defect absent service (RT: 660:11-28; 664:7-20; 12/10/2015 Lodged Trs, at Pg.54). The JDs were not notified or aware of any crime, and could not testify they had knowledge of any levies (RT: 2126:22-26). A former attorney for Sears testified Sears no longer exists (RT: 2706:3-6), and had no knowledge of what Sears did (RT:2708:8-12)

6. The People asserted that the San Bernardino counts werebased solely upon a writ of execution submitted to the sheriff for service of process (RT: 3914:13-21), and the court agreed (RT: 4208:1-8). PC-115 requires the writ to be "filed, registered or recorded." (PC-115(a)). Under statutory law, writs of execution are not filed with the sheriff during the 180 days of issuance (CCP-687.010(a) and 699.530(a)), and must be returned to the court after the 180 day period (CCP-699.560(a)). Chief Ohannessian testified that all writs were returned to the court (RT: 643:3-25; 655:1-12). Meaning, the defendant was convicted and sentenced for crimes that never occurred. Further, all 5 levies were rejected for technical defect (RT: 660:11-28; 664:7-20 and 12/10/2015 Lodged Trs, at Pg.54), and the Supreme Court held PC-115 is not violated where the instruments are not entitled to be filed (People v. Harrold, 84 Cal. 567 (1890) and People v. Powers, 117 Cal. App.4th 291, 297 (2004)).

7 In count-15, the assignee voluntarily returned the levied money back to the debtor (RT: 2736:13-2739:25). In the other counts, the assignee never possessed the levied money, and voluntarily relinckqueshed it upon request of the JD. The People requested "attempted" fraud for these counts (RT: 3989:9-3996:7). The court disagreed (RT: 4206:4-4207:5).

MID-TERM MAXIMUM POSSIBLE SENTENCE FOR REMAINING COUNTS

Count	Charge	PC-654	Reason	Mid-Term Max Sentence for Remaining Counts
7	PC-115	No		2 Years
8	PC-530.5	Yes	fn.8	
13	PC-115	No		8 Months
14	PC-530.5	Yes	fn.8	
15	PC-532	No		8 Months
16	PC-115	Yes	fn.9	
17	PC-530.5	Yes	fn.8	
24	PC-115	No		8 Months
25	PC-530.5	Yes	fn.8	
28	PC-115	No		8 Months
29	PC-530.5	Yes	fn.8	
31	PC-115	Yes	fn.13	
32	PC-530.5	Yes	fn.8	
33	PC-115	Yes	fn.11	
34	PC-530.5	Yes	fn.8	
36	PC-115	No		8 Months
37	PC-530.5	Yes	fn.8	
39	PC-530.5	Yes	fn.8	
42	PC-532	Yes	fn.12	
48	PC-115	No		8 Months
49	PC-532	No		8 Months
52	PC-530.5	Yes	fn.8	

Maximum Total Mid-Term: 6 Years 8 Months

8. All PC-530.5(a) counts were stayed (per PC-654) pursuant to the court's December 17, 2021 order (SO: 12).

9. PC-654 attaches to counts 15/16, as both levies were submitted to the King's County Civil Divsion simultaneously in the same envelope (RT: 2417:11-14; 2415:5-12). Therefore, count-16 must be stayed.

10. PC-654 attaches to counts 28/38, as both levies were submitted to the San Joaquin Civil Division simultaneously in the same envelope (RT: 1870:10-27; 1888:1-12). Therefore, count 38 must be stayed.

11. PC-654 attaches to counts 31/33, as both writs of executions/ assignments of judgments were submitted simultaneously to the clerk in the same envolpe on June 18, 2014 (See People's Information). Therefore, count 33 must be stayed.

12. PC-654 attaches to counts 36/42, as both levies were submitted to the Los Angeles Civil Division simultaneously in the same envelope (RT: 2432:18-26; 2442:26-2443:8). Therefore, count 42 must be stayed.

13. PC-654 attaches to counts 28/31, as both writs/assignments were submitted simultaneously to the clerk in the same envelope (See People's Trial Exh-20). Therefore, count 31 must be stayed.

NOTE: This does not include: (1. additional counts that must be stayed to assignments/writs submitted simultaneously to the clerk (as defendant does not possess all the writs); and (2. "overlapping" counts (per the sentencing order (SO: 12-13)) for periods that occurred during the commission of crimes between the date that the writ was issued, and levy was completed

APPENDIX D:

It appears that Judge Hall was one of the most reversed judges in the Los Angeles court system:

People v. Tavit, 2012.Cal.App.Unpub.Lexis.5345 (reversed imposition of attorney fees without notice, nor opportunity to be heard)

People v. Brown, 2013.Cal.App.Unpub.Lexis.1745 (reversed attorney fee order)

People v. Albert, 2014.Cal.App.Unpub.Lexis.4126 (reversed where improper jury instruction given)

People v. Espinoza, 2014.Cal.App.Unpub.Lexis.5468 (reversed unauthorized sentence)

People v. Ledesma, 2014.Cal.App.Unpub.Lexis.1933 (reversed public officer's sentence to state prison where it was a county sentence under Realignment Act)

People v. Fadiboard, 2014.Cal.App.Unpub.Lexis.6288 (reversed for error in credit calculation)

People v. Bland, 2014.Cal.App.Unpub.Lexis.8428 (modified judgment to reflect correct time-cridits)

People v. Nara, 2014.Cal.App.Unpub.Lexis.609 (imposed unauthorized sentence)

People v. Harrell, 2014.Cal.App.Unpub.Lexis.2322 (reversed assault conviction)

People v. Martinez, 2015.Cal.App.Unpub.Lexis.3728 (reversed bail enhancement conviction Judge Hall found to be true where underlying charges had been dismissed [Id, at 16-23])

People v. Fierro, 2015.Cal.App.Unpub.Lexis.8085 (reversed denial of Pitchess motion)

People v. Martinez, 2015.Cal.App.Unpub.Lexis.3728 (reversed for insufficient evidence)

People v. Duarte, 2015.Cal.App.Unpub.Lexis.836 (unauthorized sentence)

People v. Arana, 2015.Cal.App.Unpub.Lexis.5378 (unauthorized sentence)

People v. Woods, 2016.Cal.App.Unpub.Lexis.6455 (unauthorized sentence)

People v. Gatlin, 2016.Cal.App.Unpub.Lexis.7833 (remand after reversal of restitution order)

Harris v. Superior Court, 1 Cal.5th 984 (2016)(reversed where Judge Hall sided with People not to recind plea offer after Prop-47 reduced crime to misdemeanor)

People v. Medlock, 2016.Cal.App.Unpub.Lexis.5264 (reversed three strikes conviction and two enhancements, and ordered a new trial as to whether out-of-state conviction qualified as strike under Three Strikes Law)

People v. Walp, 2016.Cal.App.Unpub.Lexis.8216 (reversed where Judge Hall lacked authority to impose protective order)

People v. Walkins, 2016.Cal.App.Unpub.Lexis.1193 (reversal of three counts where Judge Hall admitted the defendant's entire rap-sheet)

People v. Hernandez, 2016.Cal.App.Unpub.Lexis.7360 (COA modified supervised release order)

People v. Hernandez, 2017.Cal.App.Unpub.Lexis.4045 (unauthorized sentence)

People v. Allen, 2017.Cal.App.Unpub.Lexis.302 (reversed for modification of protective order)

People v. Gastelum, 2017.Cal.App.Unpub.Lexis.4408 (reversed Judge Hall's determination that search warrant had probable cause)

People v. Palanco, 2017.Cal.App.Unpub.Lexis.729 (modified judgment to reflect correct time-credits)

People v. Hernandez, 2018.Cal.App.Unpub.Lexis.3666 (reversed firearm enhancement)

People v. Carter, 2018.Cal.App.Unpub.Lexis.1968 (reversed so court could exercise discretion under PC-1385)

People v. Davis, 2018.Cal.App.Unpub.Lexis.4216 (unauthorized sentence)

People v. Salgado, 2018.Cal.App.Unpub.Lexis.1328 (unauthorized sentence)

People v. Long, 2018.Cal.App.Unpub.Lexis.3412 (unauthorized sentence)

People v. Jackson, 2019.Cal.App.Unpub.Lexis.8322 (unauthorized sentence)

People v. Johnson, 2019.Cal.App.Unpub.Lexis.7074 (conditionally reversed sentence to permit the court to exercise discretion)

People v. Acosta, 2019.Cal.App.Unpub.Lexis.7630 (unauthorized sentence)

People v. Aguilar-Ledezma, 2020.Cal.App.Unpub.Lexis.4619 (unauthorized sentence)

People v. Dudley, 2020.Cal.App.Unpub.Lexis.6287 (reversed aggravated kidnapping conviction)

People v. Sanchez, 2021.Cal.App.Unpub.Lexis.1506 (reversed conviction for insufficiency of evidence)

People v. Collins, 65 Cal.App.5th 333 (2021)(reversed where Judge Hall allowed the prosecutor to misstate evidence)

People v. Soto, 2022.Cal.App.Unpub.Lexis.1745 (reversed gang enhancement)

People v. Davie, 2022.Cal.App.Unpub.Lexis.3531 (unauthorized sentence)

People v. Diaz, 2022.Cal.App.Unpub.Lexis.5877 (unauthorized sentence)

People v. Alfaro, 2022.Cal.App.Unpub.Lexis.1467 (reversed gang allegations and sentence unauthorized)

People v. Ayala, 2023.Cal.App.Unpub.Lexis.1052 (unauthorized sentence)

People v. Glass, 2023.Cal.App.Unpub.Lexis.5 (reversed two life sentences for Judge Hall's failure to make required factual finding)

People v. Lopez, 2024.Cal.App.Unpub.Lexis.766 (reversed where Judge Hall "refus[ed] to fully resentence" the defendant)

People v. Jenkins, 2024.Cal.App.Unpub.Lexis.512 (reversed where even the People conceeded Judge Hall erred in refusing to resentence the defendant per PC-1170.95)

IN THE SUPERIOR COURT DISTRICT, CENTRAL DISTRICT

COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA

IN RE: PROPERTY SUBJECT TO A FORFEITURE PURSUANT TO PENAL CODE SECTION 186.2(7) CREDIT BALANCE OF ANY AND ALL ACCOUNT(S) IN THE NAME OF:	)	*NO.*
DAVID ANDERSON, DAVID CARTER, USJRU INC.	)	*ORDER FOR SEIZURE OF PROPERTY SUBJECT TO FORFEITURE (PENAL CODE SECTION 186.2(7)*

Affidavit of Sarkis Ohannessian, a peace officer of the State of California, employed by the San Bernardino County Sheriff's Department, Civil Division, having been made before me that he/she has reason to believe that property described as:

CREDIT BALANCES CONTAINED WITHIN ANY AND ALL ACCOUNTS, AND ANY ITEMS OF VALUE CONTAINED WITHIN ANY AND ALL SAFETY DEPOSIT BOXES IN THE NAME(S) OF:

DAVID ANDERSON, DAVID CARTER, USJRU INC., COLLECTIONUSA, DAVID JONES
Account # 5780636342479686

and in the custody of:

MOUNTAIN WEST BANK
125 IRONWOOD DR.
COEUR D ALENE, ID 83814

is subject to seizure and forfeiture pursuant to Penal Code Sections 186.2(7), et seq., in that said property is/was:

PROCEEDS FROM FORGERY; i.e., VIOLATIONS OF PENAL CODE §115.

And, as I am satisfied that there is probable cause to believe that said property is subject to seizure and forfeiture pursuant to Penal Code §186.2(7),

ORDER FOR SEIZURE OF PROPERTY
PURSUANT TO FORFEITURE
Page 2

IT IS HEREBY ORDERED:

1) Affiant or any peace officer of the State of California, is directed to seize the within described property, leaving a copy of this Order and a receipt for the property taken, and to hold such property pending forfeiture pursuant to the provisions of §186.2(7), et seq., or until further Order of a Court of competent jurisdiction;

2) Affiant or any peace officer of the State of California is directed to enter upon the premises of:

MOUNTAIN WEST BANK
125 IRONWOOD DR.
COEUR D ALENE, ID 83814

as further described in the Affidavit in Support hereof, in the daytime (at any time in the day or night, good cause having been shown therefore) within ten (10) days of today's date in order to seize said property, good cause having been shown therefor;

3) The custodian of the within described property:

MOUNTAIN WEST BANK, *is directed to assist the peace officer executing this Seizure Order to accomplish the seizure of such property (less unpaid service charges incurred in connection with such property, and excluding such portions thereof as may be subject to a security interest in favor of the custodian) by:*

(a) Immediately freezing the balance of funds and deposit (including any portion of such balance consisting of items in the process of collection) as of the time of the service of this Seizure Order in any account describe in and maintained at the location of custodian served with this Seizure Order;

(b) Refusing to honor a check or any other order for the payment of withdrawal of money from any account described in and maintained at the location of the custodian served with this Seizure Order;

(c) Not later than 11:00 a.m. on the next banking day following the day this Seizure Order is served, delivering the net proceeds (not including the proceeds of any item then in the process of collection) of any account(s) described in and maintained at the location of custodian served with this Seizure Order to the peace officer in the form of a cashier's check or teller's check payable to the order of:

SAN BERNARDINO COUNTY
SHERIFF'S DEPARTMENT
157 W. 5TH STREET, 3RD FLOOR
SAN BERNARDINO, CA 92415

ORDER FOR SEIZURE OF PROPERTY
PURSUANT TO FORFEITURE
Page 3

IN TRUST FOR:

DAVID ANDERSON, DAVID CARTER, USJRU INC.

subject to the continuing jurisdiction of this Court, the net proceeds of each item which was in the process of collection at the time of the service hereof of the custodian and which has been finally paid by the drawee thereof.

Issued this 23rd *day of March, 2015*

JUDGE OF THE SUPERIOR COURT
CENTRAL DIVISION
COUNTY OF SAN BERNARDINO
STATE OF CALIFORNIA