

24-5546

No. USAP8 24-1113

ORIGINAL

IN THE  
SUPREME COURT OF THE UNITED STATES  
  
MARIO CONTRERAS, - PETITIONER,  
VS.  
UNITED STATES OF AMERICA - RESPONDENT,  
ON PETITION FOR A WRIT OF CERTIORARI TO THE  
UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

FILED  
JUL 31 2024  
OFFICE OF THE CLERK  
SUPREME COURT, U.S.

PETITION FOR WRIT OF CERTIORARI

MARIO CONTRERAS

12146-273, UNIT K-1

FEDERAL CORRECTIONAL INSTITUTION

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QUESTIONS PRESENTED

Petitioner, a Native American, was wrongfully convicted by an all-white jury after the government struck all Native Americans from the remaining jury pool. Counsel failed to object to the government's actions. The question presented is whether a reasonable jurist can conclude counsel's failure to object was ineffective assistance of counsel in violation of Petitioner's Sixth Amendment right to counsel.

Petitioner was falsely and wrongfully imprisoned, falsely accused of murdering his two year old daughter based on the testimony of tainted medical examiners..."false and inaccurate" testimony, in the words of a federal district judge, (U.S. Eighth Circuit Judge Ralph R. Erickson). In other cases has resulted in multiple exonerations, a man found Innocent in an infant death exoneration, (and exonerations in other death) cases in recent years. The question presented is whether a reasonable jurist can conclude that Petitioner is entitled to an evidentiary hearing in a habeas proceeding based on the signed notarized affidavit of the physician who attended his daughter when she very first arrived at the hospital, and referral to Sanford Heart Hospital Fargo North Dakota, to a "world class heart surgeon," as attending physician noted "Cardiac." The affidavit expresses the physicians first attending medical expert opinion and its highly prejudicial to exclude exonerating exculpatory medical testimony from being heard that the Petitioner is actually innocent and he was wrongfully convicted, because the jurors never had a chance to hear the attending physician before the trial court, and should not be excluded.

**LIST OF PARTIES**

**All parties appear in the caption of the case on the cover page of this petition.**

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IN THE  
SUPREME COURT OF THE UNITED STATES  
MARIO CONTRERAS,  
Petitioner,  
v.  
UNITED STATES OF AMERICA,  
Respondent.

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On Petition for a Writ of Certiorari to the  
United States Court of Appeals for the Eighth Circuit

Petitioner Mario Contreras respectfully seeks a Writ of Certiorari to review the judgment of the United States Court of Appeals for the Eighth Circuit.

OPINION BELOW

The opinion below is unpublished and is in the Appendix to this Petition. (App. A019).

## **JURISDICTION**

The Eighth Circuit Court of Appeals issued its order denying Petitioner's motion for a panel rehearing on May 3, 2024. This petition has been filed within 90 days of that order and is thus timely. This Court has jurisdiction to review the decision of the court of appeals under: 28 U.S.C. §1254(1).

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

**US CONSTITUTIONAL VIOLATION - SIXTH AMENDMENT - (IAC) Strickland(1984), Massaro(2003);**  
**Sixth Amendment violation - "by impartial jury" - racial discrimination in the jury selection process. (exclusion of Native American jurors) "Equal justice under law requires trial free of prejudicial racial discrimination in jury selection process." Batson(1986).**  
**Sixth Amendment violation - "compulsory process for obtaining witnesses in his favor."**  
**- excluded exonerating exculpatory medical testimony of first attending physician at hospital.**

## **INTRODUCTION**

The Petitioner, a Native American, an honorably discharged Veteran with no criminal history, a provider, a father who loves his children, a kind supportive caring father to six children was falsely and wrongfully imprisoned, falsely accused of murder by tainted medical examiners and wrongfully convicted by an all-white jury, and sentenced to a 30-year term of federal imprisonment. The Petitioner was wrongfully convicted by an all-white jury after the government struck all of the Native Americans from the remaining jury pool and based on the false testimony of the tainted medical examiners. The physicians in question were associated with Michael B. McGee, a medical examiner currently under investigation in over 70 plus cases. Four people have been exonerated based on the revelation that McGee and his associates provided false and inaccurate testimony to state and federal courts.

This Court's intervention is urgently needed to address these circumstances. It can do so by providing much needed clarity regarding Batson's application in the Native American context or, more directly, by simply ordering the Eighth Circuit to order the district court to take the obvious step of hearing from a doctor who attended Petitioner's daughter when she first arrived at the hospital and who is prepared to testify the Petitioner is Innocent. The Petitioner received a phone call from the mother of his daughter, yelling:"Come get your daughter or she's going into Foster Care!" (The mother a severe alcoholic wasn't taking proper care of his daughter and later the mother died of cirrhosis in 2018.) When the Petitioner got his daughter she had Pneumonia, RSV, MRSA, Staph aureus, Strep B, Severe anemia, Pneumoniae, sepsis and hole-in-the-heart birth defect. These were the circumstances how the Petitioner got his daughter. Mario's daughter collapsed at his home due to her heart birth defect (PFO hole in the heart birth defect in her heart study Echocardiogram) and because she was sick and ill he had to do CPR and rushed her to the hospital. There was no 911 emergency phone services available at the time on the Indian Reservation on January 9th, 2012. PFO hole in the heart birth defect for Mario's daughter is documented 2x, twice in his daughters Echocardiogram. Mario wants to testify about his daughters heart birth defect hole in the heart and as he did CPR trying to save his daughters life, in taking his daughter to the hospital. Also, the Petitioner is prepared to testify he is Innocent by providing exculpatory testimony about his daughters heart birth defect never heard in court yet.

This Court's intervention is obviously needed to address this circumstance.  
It can do so by providing much needed critical feedback postponing a application to this  
Mexican American couple or, more directly, by simply ordering the Hispanic cleric to  
order the cleric couple to take the action step of passing from a doctor who  
performed a abortion when she tried to take advantage of the possibility and who is prepared to  
certify the Betrothed as innocent. The Betrothed received a phone call from this woman to  
say this couple, Verily: "Come get your daughter or she's going into foster care!"  
(The mother is a severe stoic who was never taking proper care of this daughter and later the  
mother died of cirrhosis in 2018.) When the Betrothed got this daughter she had  
pneumonia, RA, MS, Sjogren's, Step 8, severe dementia, pneumonia, besides the poly-  
arthritis-pain defect. These were the circumstances for the Betrothed got this daughter.  
Also, a daughter collapsed at this point due to her heart attack defect (PMI point in the  
heart attack defect in her heart study echocardiogram) and because she was sick and ill  
she had to do CPR and suspend her to this position. There was no all emergency before this  
hastily at the time on the English translation on January 18, 2015. PMI point to the  
heart attack defect for this daughter is documented in, twice in this daughter  
echocardiogram. This was to certify about the daughter the Betrothed heart attack defect due to the  
heart and as the did CPR trying to save this daughter this, in saving the daughter to  
possibly. Also, the Betrothed is prepared to certify he is innocent by providing  
explanatory evidence about this daughter's heart attack defect never being in contact with.

STATEMENT OF THE CASE

1. In August of 2012, a grand jury indicted Contreras (after 2 separate grand jury acquittals, acquittal on February 24, 2012 and acquittal on May 8, 2012) for second-degree murder, voluntary manslaughter, assault result in serious bodily injury, and child abuse. (child abuse dismissed, See:Dkt.115/CR1210047). The government's initial theory was Contreras shook his child, then the gov't switched their story to stress from his job, providing for his children, the gov't falsely accusing Contreras to murder his daughter, A.C. TT 307-310.

2. Contreras denied these claims refusing to sign a government plea deal of 5-years and Contreras took the matter to trial to prove he is not guilty, "Actual Innocence." During the jury selection, the government struck all Native Americans from the remaining jury pool leaving Contreras, a Native American man to be tried by an all-white jury.

3. At trial, subornation of perjury, false testimony was given by medical examiners McGee, Froloff, Randall and Snell, these doctors testimonies were derived from and based upon tainted autopsy signed by Medical Examiner McGee. McGee currently under investigation in 71 cases under review. (App. A020-25).

Evan Zimmerman case was overturned in Eau Claire, WI. Michael Hansen's case was overturned in Douglas County, Alexandria, MN and Thomas Rhodes case overturned in Kandiyohi County in Willmar, MN. McGee resigned from Ramsey County Medical Examiners Office, in Saint Paul, MN in 2019.

4. Recent reporting and court findings have revealed McGee having built a lucrative career obtaining false convictions with false medical testimony and false evidence.

5. For example, McGee's false testimony resulted in Michael Hansen's wrongful conviction for murdering his 3-month old daughter. Hansen was released after six years when a judge (\*) called McGee's testimony "not credible." (App.A020-025).

6. In post-conviction proceedings, Contreras attempted to obtain an evidentiary hearing based on affidavit of Dr.Gallagher.(App.A25-26). Gallagher was the doctor who first treated Contreras' daughter when she arrived at the hospital and is prepared to give his excluded exonerating medical testimony of Contreras' "Actual Innocence." (\*US Eighth Circuit Judge Ralph Erickson)

Dr. Gallagher's testimony would be the only medical testimony untainted by McGee.

(See: Strickland(1984).

7. The district court denied Petitioner's habeas petition in its entirety and the Eighth Circuit Court of Appeals declined to issue a certificate of appealability.

8. This timely petition follows.

#### REASONS FOR GRANTING THE PETITION

The Court should grant this petition citing Batson's Ruling, need for enforcement of Equal justice under law requires trial free of prejudicial discrimination in the jury selections process, applying Batson's Supreme Court case law for Native Americans. A second reason to grant this petition is to allow the district court to hear "Actual Innocence," excluded exonerating exculpatory medical testimony from Dr. Gallagher first to treat Contreras' daughter. A Veteran who served this Great Nation honorably, and has No criminal history.

I. The Court should grant this petition citing Ruling In, Batson, Equal justice under law requires trial free of prejudicial racial discrimination in the jury selection process, citing "by an impartial jury" applicable to Native American minority, as well.

In Flowers v. Mississippi, 588 U.S. \_\_\_\_ (2019), the Court emphasized the importance of vigorously enforcing Batson(1986). Id.(op.at 16). The need for Equal justice under law, requires a trial free of racial discrimination in the jury selection process citing Batson, is particularly acute in the Native American context. In a petition submitted by Chief Judge Swan and Appellate Judge McMurdie of Arizona's courts, the judges cited statistics showing that Native American jurors are underrepresented by 51% percent. See:www.azcourts.gov/Rules-Forum/aft/1208. Petition was successful. Arizona eliminated preemptory challenges.

In this case, Petitioner, a Native American man, was falsely convicted by an all-white jury who only heard false testimony from a group of doctors sputtering

subornation false testimony relying solely upon McGee's false medical examiner report to wrongfully convict the Petitioner, although Innocent. The jury was all-white as the government struck every prospective Native American minority juror from the remaining juror pool. The result in the Petitioner's case was a Sixth Amendment US Constitutional violation of law, "...by an impartial jury..." and the Court should intervene to make clear Batson applies with equal force, trial free of prejudicial discrimination in the Native American context in the jury selections process.

II. The Court should grant this petition to invoke its sparingly used, but greatly needed supervisory power.

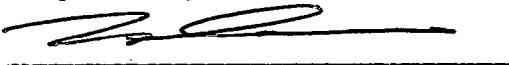
The Court's power to correct injustices is rarely invoked, but should be invoked in this unique exceptional "Actual Innocence" case. Petitioner was falsely imprisoned of murder, although not guilty, and sentenced to a 30-year term of imprisonment based on the subornation of perjury, false medical testimonies of doctors who all trace back to a doctor McGee signatory medical examiner, who was previously found to have signed false medical examiner reports and McGee has falsely imprisoned Innocent people before. The Petitioner was falsely and wrongfully imprisoned and is requesting the district court be summarily ordered to hear excluded medical testimony from a physician who was first to treat his daughter when they arrived at the hospital, and the physician is prepared to prove the Petitioner's case is exceptional, an "Actual Innocence" claim, having never been heard before in any Court. The Court should Grant Court Ordering Dr. Gallagher excluded medical expert testimony first to treat to be heard before the court.

See: In, Massaro(2003) procedural default doctrine Never bars a claim of ineffective assistance of counsel(6th Amendment violation of US Constitution)even if that claim could have been, but was not raised on direct appeal. *Id.*,538 U.S. at 503-04, 123 S.Ct. at 1693. (motion to vacate his conviction.) Mario asked to testify at sentencing hearing in November 2014 but, was denied.(Request to testify was struck from the court record proceedings.) Mario wants to testify to prove he's Innocent/not guilty, and can provide exculpatory exonerating testimony of providing CPR and rushing daughter to hospital due to her heart birth defect.(See PFO means hole in the heart in Echocardiogram heart study.)(Writ for Return).

CONCLUSION

The Court should grant this Petition on Batson claim, and on "Exceptional" "Actual Innocence" Claim remanding to district court for evidentiary hearing to hear excluded Dr. Gallagher's first-hand attending physician testimony and allow Contreras to testify in-person before the court.

Respectfully sent,

 , PRO SE *August 22, 2024*

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