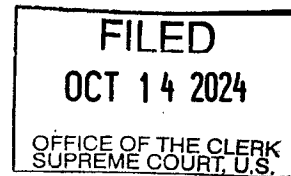


24-5803

No. _____

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



Sharif A. Eltawil

— PETITIONER

(Your Name)

vs.

David Phillips, Warden

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals For The Ninth Circuit.

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

PETITION FOR WRIT OF CERTIORARI

Sharif A. Eltawil

(Your Name)

P.O. Box 5148

(Address)

Corcoran California, 93212...

(City, State, Zip Code)

(Phone Number)

IV

QUESTION(S) PRESENTED

- 1) *Has petitioner been denied Art. I section 24 Constitution of Cal. section 24 Constitutional Rights - Rights Reserved and Denied equal protection of the laws, to due & process of law and to the proper assistance of effective (CAC), By not investigating case properly and was Counsel ineffective in not presenting potentially meritorious defenses regarding charges, * Regarding Conviction Counts 1-10 of (5) 25 yrs for only one act. * By clear evidence one act was shown via video Tape, (CAC) didn't object to the untire additional charges regarding Counts 12-13-14 and 15... * See Attachment question presented 1-3 pages... "Attachments A-B and C".

- 2) Are the punishments of * (5) 25 years in conjunction to (5) consecutive terms of (15) years to life Counts 1-10 And Count (13) of 15 years, Count 14 and 15 are all unauthorized judgments, pursuant to a continuous sexual abuse and other overlapping discrete sexual-act counts because the prosecution charged. ~~What's~~ not being considered is this was video taped in one day, same act in one day, so a continuous sexual act violation would be Penal Code 288.5 subd(c) so, additional punishments of incarceration should be vacated in the interest of Justice, Right? * Refer to Attachments A B C pages...

- 3) Is there a statute of limitations protecting the petitioner pursuant to Penal Code 803 subd(g). Alleged act was said to have occurred in 1994, which would be 4 years later stated by Accuser. If a offense is punishable by imprisonment for 8 years or more the statute of limitations is 6 years Penal Code 800... Should the judgments be set aside...

- 4) Is petitioner eligible for the benefits of Assembly Bill 2495 because: No City and/or County can charge a defendant for the price of their own criminal prosecution #10,000.00 restitution can be reduced to its statutory minimum which is \$100.00 - \$200.00 or \$300.00... * See, Page 74 entitled "Motion to accept Resubmission of Habeas with & additional Claim"

In the convictions/sentencing phase, was
Eltawil denied due process of law by being
convicted for more than one act, regarding
Penal Code Section 288(b) in conjunction to a
continuous sexual abuse under Penal Code 288.5 subd
(a) (all seen on video), in that one day there's no
possible way to be convicted for more than one act,
to allow a 12 years to life term plus, a
determinate term of 8 years bringing total to 238 yrs.
Wouldn't term of 238 years be unconstitutional and
an excessive punishment? The evidence used to
convict petitioner was a video it only shows one
act of abuse, and/or lewd act. There was no proof
of any abusive acts that should allow a term of
238 yrs. If, convicted properly and lawfully the term
would be excessively shorter, so, 238 should be
vacated in the interest of justice. * See,
* People v. Patton, 101 Cal. App 5th 922, Holdings: (1)
Pursuant to Penal Code Section 288.5 Subd (c), defendant
stood improperly convicted of continuous sexual
abuse and other, overlapping discrete sexual-act
counts because the prosecution charged, and the
jury convicted defendant, in part, of one count of
continuous sexual abuse under section 288.5 subd (a)
and four other counts of distinct acts of sexual
abuse occurring within the "same" period; (2)-
Defendant had not forfeited the issue by failing
to demur to charges below because forfeiture does

not apply to a legally erroneous sentence,
and a dual conviction in violation of Section
288.5, Subd(c), is legally erroneous; (3)-Because
the punishments for the commensurate with
defendant's culpability, the remedy was to
"vacate" his continuous sexual abuse conviction...
* The Outcome: Judgment modified to vacate
conviction for continuous sexual abuse. As
modified, judgment affirmed.

* Now shouldn't Eltawil's conviction be vacated
as well, due to similar circumstances within
the judgments of * People v. Patton, 101 Cal. App.
5th 922. * In Eltawil's case the video
shows the one act of sexual assault, abuse of a
child the one act shown prohibits multiple charges
regarding the Section 288(b) in conjunction with Penal
Codes 669.61 Counts 12-13-14 and 15. Penal Code
sections 288(b) and 288(a), the multiple
convictions predicated thereon cannot stand, and
either the continuous abuse conviction or the
convictions on the specific offenses must be
vacated. * Sec, * 2021 Cal AB 518 in conjunction
* Penal Code 654(a) (A.B. 518 should eliminate the
~~harsh~~ excessive punishing procedure) and * Penal Code
654(a) is amended (a) An act or omission that is
punishable in different ways by different
provisions of law may be punished under either
of such provisions, but in no case shall the act

1 or omission be punished under more than
2 one provision. An *acquittal or Conviction and
3 sentence under any one bars a prosecution
4 for the same act or omission under any other...

5 * Was petitioner denied due process and his sixth
6 amendment rights and its protections,
7 by Counsel's ineffectiveness by not objecting to the
8 additional Charges that lack all elements needed to
9 prove additional Counts. (Regarding (5) 15 yrs for
10 For only one act seen, one act seen doesn't include
11 Counts 12-13-14 and 15... or (5) Consecutive terms of
12 15 yrs to Life, this should be a unauthorized
13 judgment Counts 1-10) Count(13) 15yrs Should be
14 Vacated as well as (Counts 14-15) Vacated too!
15 So, was I denied Article 1 Section 24
16 Constitution of California Section 24 (Constitutional
17 Rights- Rights Reserved)...

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- [] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix B to the petition and is

- ☐ reported at Pages 1-52-66; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the United States district court appears at Appendix D to the petition and is

- ☐ reported at Pages 6-25 - 98-114; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix C to the petition and is

- ☐ reported at Pages 26-51 Page (91); or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the Cal Supreme page 91 court appears at Appendix C to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 9-13-2024.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was 2-15-2023.
A copy of that decision appears at Appendix C.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- * Article I, Section 24 Constitution of California
Constitutional Rights - Rights Reserved ...
- * Equal Protections of the 5th and 14th Amendment
- * 28 U.S.C. A. Section 2241 (c)(3)
- * Statute of Limitations Penal Codes 800-803 Subd.(g)
- * Due Process Clause of The Fourteenth Amendment...

STATEMENT OF THE CASE

- * Petitioner was convicted of seventeen sexual offenses committed against three minors victims. But petitioner plea not guilty.
 - * The Jury convicted petitioner of ten counts of committing a forcible lewd act upon a child (Penal Code section 288(b)(1), and found true that petitioner had substantial sexual contact with (a) child under 14 years of age per Penal Code, section 1203.066(a)(8)...
 - * On five of the counts, the Jury found it true that petitioner committed the offenses during the commission of a burglary (Please note there was no proof of a burglary), of an inhabited dwelling with intent to commit a lewd act upon a child under 14 years of age. * The Jury also convicted petitioner of aggravated sexual assault of a child (Penal Code section 269(a)), two counts of committing a lewd or lascivious act with minor (Penal Code, 288(a), possession of child pornography (Penal Code section 311.11(a)), and First degree burglary (Penal Code sections 459-460(a)).
 - * The Jury also found it true that petitioner had been convicted under the "One Strike" law for committing a violation of P.C. 288(a)(1) against more than one victim within the meaning of Penal Code section 667.61 (b)(1)(4), (c)(7) and (e)(5).
 - * The Court sentenced petitioner to a total term of 238 years to life in state prison (CCSC 03CF2485)
- Case No. M-19087 Filed 7-14-2021.

REASONS FOR GRANTING THE PETITION

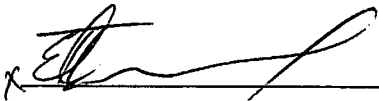
- * Petitioner has been convicted extra Charges that lack proof beyond a reasonable doubt.
- * The video Tape proves a Fact that the act of Conviction for the one act on that one day was seen. But the Continuous acts Charged don't exist.
- By Clear evidence there was only one act seen via video.
- For those reasons and in the interest of Justice additional sexual offenses added should and can be vacated in the interest of Justice... * See., * People v. Patton, 101 Cal. App 5th. 922... Explaining the multiple Convictions predicated thereon cannot stand, and either the Continuous abuse convictions or the convictions on the specific offenses must be vacated...
- Petitioner's request for relief where applicable should and can be granted in the interest of Justice...
- * Exceptional Circumstances warrants the exercise of the Court's discretionary powers, and that adequate relief cannot be obtained in any other form or from any other court...

*

CONCLUSION

The petition for a writ of certiorari should be granted.
In the interest of Justice For all...

Respectfully submitted, Mr. Sharif A. Eltalwil



Date: 10 / 15 / 2024