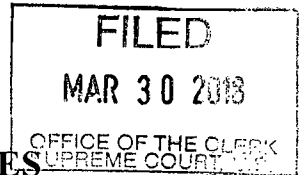


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CASE NO: 17-7364



IN THE
SUPREME COURT OF THE UNITED STATES

KULTAR SINGH GORAYA (PETITIONER)

V

THE STATE OF FLORIDA (RESPONDENT (S))

On Petition for Writ of Certiorari for Rehearing to the second district court
of appeals, the state of Florida

CORRECTED AMENDED
PETITION FOR REHEARING

Kultar Singh Goraya
Prose petitioner # Y58237
Suwannee correctional inst.
5964 U.S. Hwy. 90
Live Oak, Florida 32060

CERTIFICATE

I hereby certify the grounds are limited to intervening circumstances of substantial or controlling effect and/or other grounds not previously presented I certify that the petition for rehearing is presented in good faith and not for delay.

BRIEFLY AND DISTINCTITY GROUNDS

United States Constitution, first (1st.) amendment liberty clauses, the forth (4th.) amendment probable cause, the sixth (6th.) amendment due process, the fifth (5th.) amendment right to adequate counsel and the fourteenth (14th.) amendment equal protection. DEFECTIVE CHARGING DOCUMENT.

The evidence when viewed in light most favorable to the respondent is insufficient as a matter of law to hold petitioner criminally liable for murder in the second degree.

/s/ Kultar Singh

Kultarr Singh Goraya # Y58237



STATEMENT OF FACTS

The petitioner was arrested for a second degree-murder that was not established in accordance with the "corpus delicti" requirements, pre requisites before, during, and after prosecution for alleged offense charged by the state's information.

The state of Florida failed to burden the required proof a [t]he crime charged by information actually occurred beyond a [any] reasonable doubt.

The facts of a charge of "corpus delicti" under and in accordance with the fourth (4th.), sixth (6th.) and fourteen (14th.) amendments of the U. S. constitution required the state to prove three (3) consistent elements of facts; (1) the fact of death, (2) the petitioner was/is the cause of death, and (3) the identity of the deceased.

The state has not nor is able to establish either of the three (3) elements requires

The state of Florida, charged the petitioner with having a "depraved mind"; however the allegation was never proven or establish by a preponderance of evidence or professional opinion, examination and/or evaluation, beyond a reasonable doubt.

The petitioner was denied adequate counsel representation. He was required to represent himself, after having been charged with a mental deficient mind. The petitioner is not versed in the English language, courtroom Decorum, or legal formalities. Upon request for co-counsel or assistance by adequate, competent counsel, the request was blatantly denied, resulting in criminal conviction and countless constitutional infringements.

Defective charging document: on or about January 21st. 2015 and filed January 22nd., 2015, the petitioner was charged by information, case no.: 2014-cf-497, with the criminal offense of one I.D. count second (2nd.) degree murder in violation of the Florida statutes section 782.04(2) "evinced a depraved mind regardless of human life" the charging instrument further alleges the petitioner, "killed and murdered one rupinder Kaur goraya, a human being, by choking her". See exhibit a "state's information" AND "PROBABLE CAUSE STATEMENT."

The charging document fails to allege or establish a date, time and physical location or vicinity of the occurrence, of the criminal offense. The information alleges on or about October 2. 2007, lee county, Florida, statement as sufficient to establish probable cause for the January 21st. 2015, arrest of the petitioner. The state of Florida, as plaintiff used unrelated, non-verifiable circumstantial allegations, accusatory remarks and theories to conjecture a case against the petitioner defendant for the offense of second (2nd.) degree murder.

In or during the passage of time, from October 2007, until January 2015, it is improbable, if not impossible for the petitioner to validate, admit, or deny his activities actions, whereabouts, and contacts to prepare either an alibi or viable defense. A jury subsequently convicted the petitioner of the offense charged. After the petitioner tried to represent himself at trial, having no knowledge of the crime, facts, circumstantial statements to be used, nor law(s) of the case.

The evidence when viewed in light most favorable to the respondent is insufficient as a matter of law to hold petitioner criminally liable for murder in the second-degree.

The facts are consistent with Rupinder absconded alone (as she had a history of doing) and indicate she ^{HAD} planning to another country by herself, perhaps due to her being in arranged marriage that is why she possible left. Because in India, an arranged marriage is cultural, and traditional in India, it is custom where people of the community arrange total strangers to be married without knowing each other until the actual marriage. Also petitioner's second wife Rupinder has many different date of birth, even her date of birth is not real on her passport. See exhibit B trial transcript and discovery. PETITIONER SUBMITS THAT RESPONDENT'S ONLY ATTEMPT TO OBJECTIVELY LINK PETITIONER TO THE CRIME CHARGED FAILED, IN THAT EVERY SINGLE TEST FOR BLOOD FINGERPRINTS PHYSICAL OR DNA EVIDENCE EVEN AT (HIS FORMER HOME WHERE HE HAD RESIDED WITH THE RUPINDER), MET WITH NEGATIVE RESULTS. PETITIONER NEVER GAVE STATEMENT TO POLICE.

Please NOTE: i have enclosed the petition and did not exceed the 15 page limitation, i have also Requested YOUR HONORABLE COURT IF there is EXHIBIT # B OR Any thing else needed Please Respond if possible. Thank you.

The charging information fails to establish proper jurisdictional allegations and departs from the essential requirements of law and the fundamental principles of due process.

The petitioner will rely on the United States Supreme Court has consistently held in case of fundamental principle flaws. Writ of Certiorari will lie to correct and prevent unconstitutional detention, resulting from defect(s) or defective charging documents, judgments, convictions and sentencing.

The “vagueness” of the information charging document. The United States Supreme Court indeed vested with the power and authority to reconsider and correct rulings that have become “law of the case” where to deny or dismiss the ruling would result in a manifest injustice.

No evidence of depravity of mind was ever introduced by the state for the jury to ponder, examine in support of the allegation charging “depraved mind.” No psychiatric or psychological statements, opinions nor evaluation(s) exist to conclude the accusatory statement(s), that the petitioner acted or action(s) were the [A] result of a “depraved mental capacity.”

The depraved mind relating to this alleged criminal offense in violation of the Fla.stat.sect.782.04(2), was and is a material element of the crime. An element, factual basis one for the petitioner's jury to find. (See Apprendi v. New Jersey, 530 U.S. 466, 490, 120 s.ct. 2348, 147 L. ED. 2d 435 [2000]), in which the court held in pertinent part: "other than the fact of a prior conviction, any fact that increases a crime severity, whether the statute calls it an element or a factor, must be submitted to a jury and proven beyond a reasonable doubt."

The petitioner contends a "depraved mind" was and is an element, factor of the charged offense, the language and word "must" is mandatory and the state is required to burden proof of the alleged condition of the defendant/petitioner's before and/or during the alleged offense.

Contrary to the petitioner's state of mind; alleged to be depraved, the state allowed, over petitioner's objections, "self- representation." The state of Florida refused defendant's request for co-counsel and used what amounts to self-incriminatory statement(s), the product of the same depraved mind, alleged to obtain a conviction predicated in, and on, circumstantial statements; statements wholly in violation of the Fifth (5th) amendments to the constitutions of the United States. Unverifiable statements allegedly made by the petitioner, as "bragging rights." The defendant

could have and should have been evaluated for soundness of mind, prior, during and after alleged admissions. Petitioner never gave a statement to police.

In Shepard v. US, 125 S.Ct. 1254 (2005), the petitioner's guilt in fact must establish each element of the offense without reference to any alleged admissions of a petitioner. ("Conviction cannot be based on uncorroborated confession rather, there must be some evidence that the crime was real and not imaginary"). See. ID. at 1267

The defective charging document (information) does not and did not state an approximate time (am or pm) and approximate physical location, address or vicinity of the alleged criminal offense occurrence a defect that cannot be cured, a statement of particulars cannot cure fundamental defects in an indictment or information. It is inconceivable that a defense, certainly any viable defense can or may be adequately prepared by a defendant when the accusatory writ fails to establish necessary material facts, even jurisdiction to charge and prosecute are questionable. "Proper jurisdictional allegations are as essential in an accusatory writ as are those relating to material elements of the crime." A statement of particulars cannot cure fundamental defects in charging document(s); writ of certiorari is the proper method to challenge unlawful detention.

In the instant case, the burden weighted heavily on the state to prove, in homicide cases in Florida, corpus delicti consists of three (3) essential elements, neither of which was proven by the state beyond a reasonable doubt, as required. (1) The state must prove the fact of death. The state has failed to meet the burden; the circumstances only prove the alleged victim is either "missing or voluntarily disappeared." (2) A second element could not be proven beyond a reasonable doubt without, the state establishing the first element, the second element being, the existence of the criminal agency of another person as the cause of death, and third (3) the identity of the deceased, no proof of a death and specifically the death of the alleged victim ordained to be accepted as true, proven, demonstrated beyond doubt, certainly not beyond any reasonable doubt. *Hulst v. State*, 166 So. 828(1936)

Evidence which furnishes nothing more than a suspicion that a defendant or petitioner committed a [The] crime is not sufficient to uphold a conviction. A motion for judgment of acquittal should be granted in a circumstantial evidence case if the state fails to present evidence from which the jury can exclude every reasonable hypotheses except that of guilt. When the state relies on circumstantial evidence to show guilt, such evidence must meet the test for circumstantial evidence.

The petitioner pled not guilty of the charged offense and provided numerous alternative(s) hypotheses over a seven(7) years span to counter the state's allegations, from not being humanly possible to remember where petitioner was, to the fact petitioner may not have even been in the state of Florida; on or near, the time of the alleged occurrence.

PETITIONER KULTAR SINGH GORAYA ALLEGES HE SUFFERED A MANIFEST MISCARRIAGE OF JUSTICE IN FLORIDA TRIAL COURT.

THE HONORABLE UNITED STATES SUPREME COURT HAS NEVER ENTERTAINED THE EGREGIOUS MAGNITUDE OF CONSTITUTIONAL VIOLATIONS AS A REVIEW OF THESE PROCEEDINGS WILL REVEAL AND REFLECT IN STATE COURT PRACTICE(S).

DONE AND REQUESTED, THIS 06 DAY OF DECEMBER, 2018.

RESPECTFULLY SUBMITTED

/s/

Kultar Singh

KULTAR SINGH GORAYA #Y58237

SUWANNEE CORRECTIONAL INST.

5964 HWY 90

LIVE OAK, FLORIDA 32060