

No. 17-8218

IN THE SUPREME COURT OF THE UNITED STATES

WILLIAM NATHANIEL WASHINGTON

Petitioner,

v.

MARC DIAMOND

Respondent.

PETITION FOR REHEARING OF THE
PETITION FOR WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS, FOR THE NINTH CIRCUIT

William Nathaniel Washington

Prisoner ID No. AT-6324

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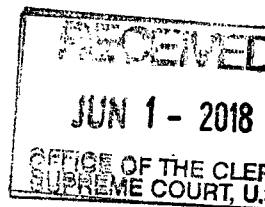


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v.

MARC DIAMOND, Respondent.

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PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS, FOR THE NINTH CIRCUIT

Petitioner, William Nathaniel Washington, nephew of Edward Smuckler, hereby, moves this honorable Court to rehear the Petition for Writ of Certiorari to the United States Court of Appeals, for the Ninth Circuit, that was denied by this Court, on April 30, 2018.

GROUNDS

This Petition for Rehearing is being made on the grounds that:

1. "IS THERE NO HELP FOR THE WIDOW'S SON?"
2. INTERVENING CIRCUMSTANCES OF A SUBSTANTIAL AND CONTROLLING EFFECT EXIST WITHIN PETITIONER'S CASE, WARRANTING THIS COURT'S EXERCISE OF DISCRETIONARY POWERS, AND ADEQUATE RELIEF CANNOT BE OBTAINED IN ANY OTHER FORM AND FROM ANY

OTHER COURT.

3. A UNITED STATES COURT OF APPEALS HAS DECIDED AN IMPORTANT QUESTION OF FEDERAL LAW THAT HAS NOT BEEN, BUT SHOULD BE, SETTLED BY THIS COURT. SEE SUPREME COURT RULE 10(c).

JURISDICTION

This Petition for Rehearing is filed within 25 days of the date of denial of the Petition for Writ of Certiorari, under Rule 44.2 of this Court.

CONSTITUTIONAL PROVISION AND STATUTES INVOLVED

United States Constitution, Amendment Fourteen provides, in relevant part: No State shall...deprive any person of life, liberty, or property, without due process of law, to "guarantee more than fair process," Washington v. Glucksberg, 521 U.S. 702, 719, 138 L.Ed.2d 772, 117 S.Ct. 2258(1997), and to cover a substantive sphere as well, "barring certain government actions regardless of the fairness of the procedures used to implement them," Daniels v. Williams, 474 U.S. 327, 331, 88 L.Ed.2d 662, 106 S.Ct. 662(1986).

STATEMENT OF THE CASE

On September 5, 2001, the United States Court of Appeals, for the Ninth Circuit held that: "THERE IS A CLEARLY ESTABLISHED CONSTITUTIONAL DUE PROCESS RIGHT NOT TO BE SUBJECTED TO CRIMINAL CHARGES ON THE BASIS OF FALSE EVIDENCE THAT WAS DELIBERATELY FABRICATED BY THE GOVERNMENT." Furthermore, this holding necessarily implied an additional holding: "ANYONE WHO ACTS ON BEHALF OF THE GOVERNMENT SHOULD KNOW THAT A PERSON HAS A CONSTITUTIONAL RIGHT NOT TO BE 'FRAMED'". See Devereaux v. Abbey, 263 F.3d 1070 (9th Cir. 2001).

On January 26, 2012, the Petitioner was held "in-custody", due to Los Angeles Police Department, Detective Marc Diamond, "deliberately fabricating evidence", in which, the signature of Petitioner was FORGED on an "Investigative Action/Statement Form", which is a document used by police detectives to chronicle statements made by parties interviewed by detectives. This above-named detective reported to Petitioner's Parole Agent, that Petitioner had admitted guilt to the criminal charges that he had been arrested as a suspect for. This, in turn, caused Petitioner's parole agent to place a "parole hold" on the petitioner, keeping him in-custody. However, this detective did not file criminal charges against the Petitioner, until March 7, 2012; a time period of 41 days that Petitioner was compelled to remain in-custody, as a consequence of "deliberately fabricated evidence".

On October 31, 2012, at Petitioner's Preliminary Hearing, Los Angeles Police Department(L.A.P.D.), Detective Marc Diamond testified to the fact that Petitioner signed the "Investigative Action/Statement Form". Petitioner to prove that this above-named detective had just lied, under oath, called Handwriting Expert, Laurie Hoeltzel, who testified to the fact that the signature on the "Investigative Action/Statement Form" is a FORGERY, that Petitioner DID NOT sign. The State prosecution DID NOT contradict and overcome by other evidence, the prima facie showing of "deliberate fabrication of evidence", made by the Petitioner.

On November 9, 2012, at the continued preliminary hearing of Petitioner, State court judge, Jessica Silvers, WITHOUT compelling the state prosecution to "contradict and overcome by other evidence" the prima facie showing of "deliberate fabrication of evidence" made

by the Petitioner, discounted the fact that the handwriting expert opined that the signature on the "Investigative Action/Statement Form" was a FORGERY, that Petitioner DID NOT sign, and "SUBJECTED THE PETITIONER TO CRIMINAL CHARGES", basing a portion of her decision on evidence "DELIBERATELY FABRICATED" by the Los Angeles Police Department. See Appendix I.

The state prosecution has NEVER contradicted and overcome by other evidence, the prima facie showing of "deliberate fabrication of evidence", made by Petitioner, at the preliminary hearing.

REASON FOR GRANTING THE PETITION

This case is before this Honorable Court for one reason alone, because the Ninth Circuit Court of Appeals, in Devereaux v. Abbey, 263 F.3d 1070 (9th Cir. 2001), took it upon themselves to decide an important question of federal law, that has not even been decided by this Court. According to the Ninth Circuit, "THERE IS A CLEARLY ESTABLISHED CONSTITUTIONAL DUE PROCESS RIGHT NOT TO BE SUBJECTED TO CRIMINAL CHARGES ON THE BASIS OF FALSE EVIDENCE THAT WAS DELIBERATELY FABRICATED BY THE GOVERNMENT."

However, the lower courts are giving no deference to this ruling, by Ninth Circuit, simply and respectfully because only this Court has the authority to settle that question.

When this question of federal law was decided by the Ninth Circuit, that court failed to answer a number of questions. For example, when does the violation accrue? Is it at the first instance of evidence being deliberately fabricated, at the first presentation to the prosecutor, at the time charges are filed, at arraignment on those charges, or at some earlier or later point? All of those issues remain to be

decided. And when should an officer have had such positive knowledge that the defendant was truly innocent that the further conduct of the investigation, or presentation to the prosecutor, violated the defendant's constitutional rights? Does the evidence, consisting of the testimonies of two handwriting experts and one police practice expert, easily support a jury finding that the defendant in this civil case violated the newly delineated right settled by the Ninth Circuit Court of Appeals, in Devereaux v. Abbey, 263 F.3d 1070 (9th Cir. 2001), or is the evidence not even weighty enough to allow jury consideration, that is to say, no reasonable jury could decide that the right was violated?

Here, in the case-at-bar, is a matter that is of the utmost importance, and truthfully deserves for this Honorable Court to allow it the opportunity to be heard on its merits. The reason that exist justifying this Court granting review is simple: "If this constitutional due process right does exist, then this case should have already been dismissed, not only, when the state prosecution failed to contradict and overcome by other evidence, the prima facie showing of deliberate fabrication of evidence, made at the state preliminary hearing; but when the state prosecution deliberately suppressed the 'Investigative Action/Statement Form' during the state trial proceedings of Petitioner, to prevent the defense from being able to impeach L.A.P.D. Detective, Marc Diamond, who had just testified, in the presence of the jury, to the fact that Petitioner signed the 'Investigative Action/Statement Form'". See Appendix J.

CONCLUSION

For the foregoing reasons, Petitioner beseeches this Court to grant review of the Petition for Certiorari.

Dated: May 6th, 2018

Respectfully submitted,

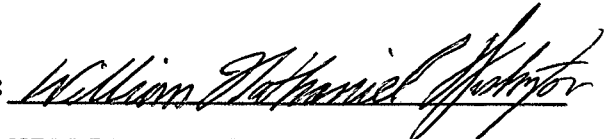

WILLIAM NATHANIEL WASHINGTON

CERTIFICATION OF PARTY UNREPRESENTED BY COUNSEL

I, WILLIAM NATHANIEL WASHINGTON, HEREBY, CERTIFY UNDER PENALTY OF PERJURY, UNDER THE LAWS OF THE UNITED STATES OF AMERICA, THAT THIS PETITION FOR REHEARING IS PRESENTED IN GOOD FAITH AND NOT FOR DELAY, AND IS RESTRICTED TO THE GROUNDS OF INTERVENING CIRCUMSTANCES OF A SUBSTANTIAL AND CONTROLLING EFFECT, AS WELL AS, TO OTHER SUBSTANTIAL GROUNDS NOT PREVIOUSLY PRESENTED.

EXECUTED THIS TWENTY-THIRD DAY, OF MAY, IN THE GLORIOUS YEAR OF 2018.

BY:

A handwritten signature in black ink, appearing to read "William Nathaniel Washington", written over a horizontal line.

WILLIAM NATHANIEL WASHINGTON

**Additional material
from this filing is
available in the
Clerk's Office.**