

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Washington, D.C. 20543

Henry C. BARNETT — PETITIONER
(Your Name)

VS.

Kim. Holland, Harden — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED States District Court, For the central District
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)
OF California

PETITION FOR WRIT OF CERTIORARI

Henry Charles. BARNETT
(Your Name)

(cc1) P.O. Box-608, D-2, 66-1044
(Address)

Tehachapi, CA. 93581
(City, State, Zip Code)

(310) 328-8251
(Phone Number)

QUESTION(S) PRESENTED

QUESTION:

1. Due too, INEFFECTIVE ASSISTANCE OF COUNSEL, where in (1996)
2. (pet) BARNETT, has indeed AWARDED one, too many strikes, and -
3. where (pet) BARNETT, should have been sentenced to a (17b) ONLY
4. is that NOT "CORRECT?" ??
- 5.

6. Due too, (pet) BARNETT, RELIZING years later - AFTER he decided
7. to send FOR the (1984) CASE NO. A701455, to REVIEW and
8. see what kind OF plea-BARGAIN, was accepted back in (1984).
9. That's where ARTER (pet), did some research and reviewed
10. the records, he found out about the UNLAWFUL STRIKES
11. AND sentence OF 25-to-LIFE, under the case NO. YAO25301
12. DATED-3-25-1996.
- 13.

Question:

15. which is what (pet) ATTORNEY, Joel W. Jones, should have
16. done in open court by way OF motion FOR (pet) BARNETT, to
17. PROVE during open court - That the defendant BARNETT, -
18. continue &
19. had one "CONTINUOUS ACT" OF 2-CNTS RAN CONCURRENTLY
20. with each other, FOR (one strike), AND maybe to be given
21. the (17b) MISTAKE - should have been more ACCURATE??
22. QUESTIONS

23. IN which (pet) BARNETT's, ATTORNEY, NOT do, which shows
24. "INEFFECTIVE ASSISTANCE OF COUNSEL" in both trial AND
25. in Automatic Appeal, by the Appeal ATTORNEY at that
26. time - OF FILING AN APPEAL, (Pet) ASK'S "CORRECT"???
27. petitioner here ASKS: are NOT all these Questions "CORRECT"??
28. - IN THIS (WRIT???)

Questions:Question(s) PRESENTED

1- Is it not true, Petitioner Asks by state law - That an unlawful or illegal, sentence or Action done to a defendant in open court by The Superior court of (Torrance) in California, petitioner HAS - Reviewed state Law, AND it says an illegal sentence, OR conviction, CAN be brought back to The court At Anytime incarcerated, OR as a FREE citizen under The Law OF (2254), OR 2255, in The Form OF a Habeas corpus, To have Actions, TAKE in either correcting The sentence OR Resentence, and (OR) vacate The whole complete sentence - Is This Law stated and Read, by petitioner Correct??

2- Questions:

petition, ALSO states NEW EVIDENCE LAW OF The Habeas corpus No. 1473, under IN RE Gay Donnell Miles - No. 6046534, which was (GRANTED) and IN Effect on: JAN-01-2017 by Law, it should include cases like (pet)'s BARNETT, where thru ^{due} diligence and lots OF RESEARCH petitioner, Had Relized because NOT He the (pet), ATTORNEY OR AUTOMATIC APPEAL ATTORNEY had bothered to see if The prior strikes were All Legal - AFTER READING OVER ALL The 3-strikes Law - (pet) had a (thought) To File FOR The Archives, OF case No. A701455, Then AND only Then, DID (pet) Relize The strikes in his prior, was illegal - Question? SO, shouldn't The NEW Law NO. 1473, be Applied IN This WRIT ??? - SEE NEXT page-3 P-11

QUESTION(S) PRESENTEDQUESTIONS:

- 3- I (pet) BARNETT, do understand being late sending OR applying for A (COA), To The 9th cir court OF appeal- but as (pet) BARNETT, HAS SHOWN IN APPENDIX-E (pet) Had sent AS (PROFF) and Reason FOR HIS TARDENESS by way OF "SR-22 Form" signed AND dated by LIBARAIN, which should HAVE ~~EX~~SCUSED (pet) AND ALLOWED (Pet) BARNETT, To be AWARDED WITH A (COA) IS (pet) BARNETT NOT CORRECT??

QUESTIONS:

- 4- Then There is the case OF? DAVIS V. WOODFORD- 446, F 3d 957, (2006) "GRANTED", by the 9th cir. court OF appeal, (CALLED BREACH OF contract). IN my CASE? A701455 OF old (1984) plea- AGREEMENT, and (contract) where my Rights ALSO were (violated), due to my conviction, back THEN were FOR A plea- OF? Cnts-2 and Cnts-6 To be and were RAN both together- concurrently WITH each other FOR The purpose OF one (Act) one (PRIOR) conviction OR one strike, only to be - used as (one prior) IF EVER convicted on a Felony like The (ORIGINAL) CASE OF? A701455. NOT! FOR NEW (LAWS) such as "The Three STRIKES Law" does The (pet) BARNETT, CASE Fit The NEW LAW OF (BREACH OF contract)???

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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- (A-) APPENDIX-A REPORT AND RECOMMENDATION, Doc NO. 24 (2-15-16)
by Magistrate Judge: Frederick E. Mumm
- (B-) APPENDIX-B ACCEPTING REPORT and RECOMMENDATION, Doc NO. 30 (2-22-17)
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- (C-) APPENDIX-C Court of Appeals - 9th Cir. Judges: O'SCANNLAIN and
Circuit Judges: GOULD, No. 17-56030, Filed: (07-21-2017)
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- (D-) APPENDIX-D Court of Appeals: 9th Cir. (ORDER) by: O'SCANNLAIN AND
GOULD, Cir. Judges - (DENIED) NO. 1756030, Filed: Oct-3-2017
- (E-) APPENDIX-E Court of Appeals: 9th Cir. Motion For Rehearing - 59(E)
before Cir. Judges: GOULD & O'SCANNLAIN, No. 1756030, Filed: 10-24-17
- (F-) APPENDIX-F Court of Appeals: 9th Cir. (ORDER) before: LEAVY and TALLMAN,
Circuit Judges. (DOC ENTRY NO. 5) (DENIED) NO. 1756030, Filed: 11-28-17

TABLE OF AUTHORITIES CITED

See: Lambright, V.
 CASES Stewart, 220 F.3d 1022, 1025 PAGE NUMBER
 (9th Cir. 2000) (EN-banc) ON First Appeal (7-6-2017 Page - 2
 The court is mindful, that it must "Resolve" doubts about
 the "Propriety" of a (COA) OR Appeal, in the (Petitioners) FAVOR.
 Supporting cases: ON (Pet) second petition Asking For
 Rehearing on a (COA) to be heard on the (merits) of
 cases? see Attachment 003 cont. page No. or letter
Letter: "C."
 Executed on 10/17/2017,
 In the: People v. Johnson 96 Cal. App. 4th 188 (2002) Cal. App. Lexis, A599
 In the, (1984) conviction, the judge, joined the "Two counts", and ran them as
 a "concurrent" sentence to be served as stated. Prosecution, used (1170.12)
 of the Penal code, to have the (pet), sentenced to "Twenty Five-yrs" to Life.
People v. Coffman (1951, Cal App) 105 Cal App. 2d 164, 233 P2d 117, et

STATUTES AND RULES Penal code: (654) -

which back in (1984), would have meant the same
 as "two counts" RAN concurrently with each other.

under the code, one may not use multiple provisions,
 to enhance an conviction - which is why in (1984) the
 Judge then sentenced me with or to one (act) for Both
 (cnts) - For one sentence "prior", if ever arrested again
 for same (Felony) or one similar to but prosecution did
 indeed illegally enhance, The (1984), conviction, and then
 multiplied the (1984) "cnts" making an illegal "two-strike"
 enhancement - to Add to a "Felony / misdemeanor" conviction.

OTHER Continue From above: "Attachment 003 cont.

under the "Three strikes your out Law", (1170.12)
 you can only be given a (strike), For each prior
 "conviction", NOT For each "count" of the same act and RAN
 concurrently as the (1984) sentence minute order case No.
 A701455 clearly shows. All "courts" keep attacking (pet)
 on (procedures), All Im (pet), is asking for is to Address
 petition on the (merits and ok Actions) stated in (verit co)
 P-14

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 A to the petition and is

☒ reported at united states Dist court, central Dist; 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 B to the petition and is

☒ reported at DISTRICT COURT, CENTRAL DISTRICT; 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 COURT OF APPEALS, FOR the NINTH CIR.; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the N/A court appears at Appendix _____ to the petition and is

☐ reported at N/A; 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 OCT 03-2017. APPENDIX-D

☐ 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: 10-24-17, and a copy of the order denying rehearing appears at Appendix E, and F, Dated: 11-28-17

☐ An extension of time to file the petition for a writ of certiorari was granted to and including N/A (date) on N/A (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 N/A.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: N/A, 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 N/A (date) on N/A (date) in Application No. A.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Penal code 288.5: Continuous Act,
Petitioners, rights were violated, Prosecution misled the courts
and jury by, stating the Petitioner, had multiple Felony convictions.
This, violates Petitioners, right to trial by, "Jury Safeguards," as
to the constitutional rights under the, Sixth and Fourteenth
Amendments. The sixth Amendment, Guarantees the Right
To effective Assistance of Counsel in "Criminal Prosecutions"
U.S. v. Reinhart, 357 F.3d 521, 530-31 (5th Cir. 2004) counsel's
Failure on appeal to raise thru a motion, is a trial courts sent-
encing ERROR was ineffective Assistance, because error increas-
ed Defendant's sentence by 5-years or

Due to, Ineffective Assistance of Counsel.

Where petitioner here, was Awarded one, to many strikes
under the (1/70.12) Three strikes your out Law. Where the
petitioner understood years later, After wondering, what deal
he took in (1984), petitioner decided to check thru way of
Archives dept - After Reading the (1984) case sentencing order for
the first time (pet) realized for the first time he was sentenced
illegally or

Statement: (IAC) Attorney: Joel W. Jones, and court "Automatic
appointed Sentence Appeal Attorney: MARCI - "should have both
been aware of the illegal-adding of strikes in (pet) (1996)
case, and should have motioned for the (1984) case by way
of Archives, which neither bothered to do instead they
looked to the "inaccurate" prison packet," which is sure
is blurry and (old) and hard to read - other wise why or
How could such a bad mistake be made? - (IAC) -

STATEMENT OF THE CASE

See Atched Page FOR:

TRUE Statement OF the case, as now and

The way petitioner, BARNETT's Rembers and The way
petitioner would like the "supreme court of the United
States to Read what happened-AND why the (pet)
KNOWS he is iligaly detained and is unlawfully
Sentenced to

Please Read, and see Page-1, behind
This FORM. ALSO- Page #2, =

Just so The court, KNOWS I'm doing The petition
("IN FORMA PAUPERIS,") AND in NO way am I,

A LAWYER OR HAVE I EVER practice beening A
LAWYER (NOR) HAVE (pet) EVER been to OR in ANY
LAW school- So, please if it would the
court be kind AND consider it to

"VERY INPORTANT FOR THE CASE"

SEE COPY's OF: (Archive Receipt) AND Records which
ARE Listed AS Exhibits-"A & B", Exhibits-A, shows DATE OF
WORK INVOICE: sent; 6-01-2015, SERIAL NO. 309669, and
Recieved by (pet) on: 6-4-15, Next Page: Sentencing PROCEEDINGS,
NEXT page-one OF TWO, sentencing minutes ORDERES, TWO OF TWO minutes
orders, A TRANSCRIPT showing PROOF OF one Act and one PRIOR Page-7 to
Exhibits-B, showing transcript pages-8 & 9. All sent to the FALLING
COURT OF NINTH CIR OF APPEALS, Executed on: 10-17-2017

SEE PAGES-1, & 2. Behind This PAGE. P-40

page-1

STATEMENT OF THE CASE

1.

2. The trial court Imposed an illegal sentence, by
3. Awarding (pet) with two strikes for a concurrent
4. (1984) case NO. A701455, of one Act, one conviction
5. & one Prison term. At the time of petitioners trial
6. and Thereafter, Petitioner NOR (pet) Attorney had ANY-
7. thing on the (1984) conviction, Except a Prison Packit.
8. which is what at the time, The court, and (DA) went
9. OFF- it was NEVER shown to the petitioner, but (pet)
10. is sure it was Blurry, and not Readable- This (pet) knows
11. because (pet) Recieved Later AFTER- The case Records
12. Were sent to (pet) on 6-01-2015, (pet) Recieved Abstract
13. OF (1984) CASE FROM Prison counsel sometime in 2016.
14. but in Post-trial the (dA) And Judge said the "strikes
15. were good, My counsel should Have ordered the com-
16. plete- Records From the (Archives dept) by way of
17. a motion but he did not. The Evidence From those
18. Records would have shown- what petitioner Now uses
19. in his current (Writ) petition. Then The Law only -
20. Required the (Prison Packit), Now the courts have to -
21. Present to the (Jury) All case Records, to PROVE ANY
22. strikes, such as sentence orders, sentencing Abstracts,
23. ANY and all TRANSCRIPTS- to show (true) strikes do -
24. Exist,

25

see continuing page-2

26

27

28

page-2

STATEMENT OF THE CASE

1. Those Records today, would have shown- one
2. strike- due to one Act, and both cnts- were RAN
3. concurrently with each other, for one continuous
4. conviction, AND if a new (Felony) in the Future
5. does Exist- The old (1984) case, CAN only be used
6. for one PRIOR.
7. Current status continued:
8. I've been in PRISON FOR 22-yrs for a conviction of a
9. 10851(a) V.C., using a vehicle without the owners consent. A
10. Felony Hobbler, which took place in (1995) which should
11. OR could be considered a (17b) my old (1984) case that I
12. was illegally awarded to many strikes for, which took place
13. in Lancaster court house- AS a Plea- Agreement of cnt. 2
14. & cnt. 6, was to be RAN as a single conviction, and RAN
15. concurrently- which is the way the Judge, in (1984) did in-
16. deed sentence the petitioner. due to the fact that both
17. cnt's at the time of (pet) (1984) plea- Agreement were
18. derived out of the same operative and Acts. Thus,
19. Plea- bargain was for and is cnt-2, & cnt-6. to be RAN
20. concurrently as one conviction. Please check the
21. Abstract of Judgement and sentencing minutes -
22. Order AND transcripts for the (1984) case NO. A701455
23. AS it shows one case number and one conviction under
24. penal code 1170. (G) A PRIOR separate PRISON term for
25. the purpose of this section shall mean a continuous com-
26. - pleteted period of incarceration imposed for a particular
27. offense alone or in combination with a concurrent or con-
28. - secative sentence, would still be one conviction, one strike &

pg#1

REASONS FOR GRANTING The Petition

1. The reason the court should "Grant" a certiorari
2. For this Petition, one of many reasons will be stated
3. below. First of "petitioner" is no expert in Law -
4. but did realize at a later date - thru talking to
5. other prison legal legal inmates, Petitioner had
6. diligently researched the three strikes Law: 667(b)(1)
7. & 1170.12. Then sense not sure at the time, what his
8. Plee-bargain was in (1984) case NO. A701455, Petitioner
9. decided to write AND Ask the Archives department,
10. to send the sentence order and transcripts of
11. said case - seeing how petitioner was just 23-yrs
12. old in (1984) - and could not remember the plee-deal.
13. 8-months later petitioner received the Archives -
14. packet on the (1984) case, then and only then did the
15. petitioner realize the two strikes for that prior was
16. unlawful and iligake

- 17.
18. ① Reason is: under the "three strikes" your out Law,
19. The petitioner, was illegally awarded two strikes
20. For a old prior, That doesn't fit the standards
21. because according to the case NO. A701455, that
22. is part of (pet) writ. The sentence minut order
23. states: cnt-2 & cnt-6 run concurrently with each -
24. other - For one contenouse Act, one sentence, one prior
25. one case NO., one prison term of 6-yrs with half -
26. Time.

27. See Attach page: #2

28.

REASONS FOR GRANTING The Petition

pg#2

1. ② Reason, petitioner to be "Granted" it Falls under
2. the Falling Laws?
- 3.
4. (Fleeming v. Evans (2007) CA-10 OKla) 481 F.3d -
5. 1249
6. petitioner did discover Factual Predicate, of his
7. claim-but not until he recieved and researched -
8. the records of case NO. A701455, by way of the
9. Archives department Date Recieved? 6-01-2015
10. Then and only then (pet) LEARNED the true Facts of His
11. sentence to be unlawful and illegal as well

13. ③ sense petitioner's case, Falls under Newly Evidence,
14. According to New Law? After TH re Guy Donell, Miles
15. NO. G046534, Newly discovered Evidence Habeas corpus
16. LAW - S. B. 1134, Effective? Jan-01-2017, Habeas Relief
17. is NOW "Granted" when New Evidence Exists, by Law that
18. should include unlawful strikes Newly discovered to
- "NEW LAW" which is under NEW Habeas corpus LAW: 1473

- ④ Then There is the case OF? DAVIS v. WOODFORD 446 -
21. F 3d, 957 (2006), "Granted" by The 9th cir. court of
22. Appeal, called (Breach of contract),
23. In my case: A701455, (1984 plea-Agreement, and (con-
24. tract.) ALSO my rights were violated, and (pet) should -
25. have never been awarded two strikes, where in the closed
26. contract it states ANY New crime must be the same
27. in order to be awarded one priok only
- 28.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Henry Charles Barnett

Date: 01-28-2018