

No. \_\_\_\_\_

\_\_\_\_\_  
IN THE

SUPREME COURT OF THE UNITED STATES

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\_\_\_\_\_  
CURTIS CLIFFORD INGRAM — PETITIONER  
(Your Name)

vs.

MATTHEW CATES — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

NINTH CIRCUIT COURT OF APPEALS

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

PETITION FOR WRIT OF CERTIORARI

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CURTIS C. INGRAM #AE6335

(Your Name)

P.O. Box 2199

(Address)

Blythe, CA. 92226

(City, State, Zip Code)

N/A

(Phone Number)

QUESTION(S) PRESENTED

IN UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA,  
A 28 USC §2254 PETITION FOR WRIT OF HABEAS CORPUS WAS SUBMITTED  
IN DISTRICT COURT, DIVISION AND COUNTY PETITIONER WAS CONVICTED  
IN, HOWEVER, PETITION WAS LODGED IN WRONG DIVISION, WHERE THAT  
DIVISION OPERATED UNDER GUISE AND TITLE OF DIVISION WITH SUBJECT  
MATTER JURISDICTION.

1. CAN JURISDICTION OF THE WESTERN DIVISION (28 USC §84(c)(2)),  
BE CONFERRED TO THE SOUTHERN DIVISION (28 USC §84(c)(3)),  
WHERE NO AUTHORITY EXISTS?
2. WHERE A PETITIONER, WHO REASONABLY BELIEVES THAT HE FILED  
HIS PETITION IN THE CORRECT VENUE, LATER FINDS OUT THAT HIS  
PETITION WAS LODGED IN THE INCORRECT VENUE, WHERE THAT VENUE  
HAS OPERATED UNDER FRAUDULENT GUISE AND TITLE OF CORRECT  
COURT, IS A FRCP, RULE 60(b) MOTION THE CORRECT VEHICLE TO  
REDRESS THIS ISSUE?
3. WAS PETITIONER PREJUDICED, AS A DIRECT RESULT?

IN UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA,  
A 28 USC §2254 PETITION FOR WRIT OF HABEAS CORPUS WAS SUBMITTED  
IN THE DISTRICT COURT, DIVISION AND COUNTY PETITIONER WAS CONVICTED  
IN, HOWEVER, ONLY FIVE OUT OF THE EIGHTEEN GROUNDS FOR RELIEF  
WERE ACKNOWLEDGED, DESPITE PETITIONER'S ADHERENCE TO INSTRUCTION  
STATED ON STANDARDIZED DISTRICT COURT FORM TO ADD ADDITIONAL PAGES  
IF PETITIONER'S GROUNDS FOR RELIEF EXCEED FIVE GROUNDS.

**QUESTION(S) PRESENTED**

1. SHOULD DISTRICT COURT'S STANDARDIZED FORM MAKE A DISTINCTION ON PETITION INDICATING THAT PETITIONER ELECTS TO RAISE MORE THAN THE FIVE GROUNDS THAT SPACE IS PROVIDED FOR, WHERE SUCH A DISTINCTION WOULD POSSIBLE CURE ANY DEFECTS IN THE INITIAL PLEADING?
2. IF INADVERTENCE ON THE PART OF PETITIONER, OR FILING ERROR ON PART OF DISTRICT COURT ARISES, AND GIVEN PETITIONER'S INTENTIONS, SHOULDN'T PETITIONER BE AFFORDED A VEHICLE TO REDRESS CONCERNS, ESPECIALLY GIVEN THE FACT THAT PETITIONER WAS NOT AFFORDED THE OPPORTUNITY TO FULLY AND FAIRLY LITIGATE ALL HIS CLAIMS?
3. WAS PETITIONER PREJUDICED, AS A DIRECT RESULT?

THE UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA, UNREASONABLY DETERMINED FIVED GROUNDS RAISED FOR HABEAS RELIEF, WHERE THOSE DECISIONS DIRECTLY CONFLICT WITH RELEVANT DECISIONS OF THIS COURT.

- 
1. SHOULD RELIEF BE GRANTED UPON VIABLE DEMONSTRATION AND SUPPORTED BY RELEVANT CASE LAW?
  2. WAS DISTRICT COURT'S DETERMINATION OF LAW AND FACT CONTRARY TO RELEVANT DECISION'S OF THIS COURT?
  3. WAS PETITIONER PREJUDICED, AS A DIRECT RESULT?

### QUESTION(S) PRESENTED

AFTER WARRANTLESS ARREST, WITHOUT POLICE ISSUANCE OF MIRANDA WARNINGS NOR CHARGES, ARRESTEE WAS TRANSPORTED FROM ALLEGED CRIME SCENE TO HOSPITAL, FOR PURPOSES OF GAINING A TACTICAL ADVANTAGE THROUGH SEARCH AND SEIZURE NOT INCIDENT TO A LAWFUL ARREST. AT HOSPITAL, POLICE COMPELLED ARRESTEE TO SUBMIT TO INTRUSIVE PHYSICAL EXAMINATION OF HIS PERSON THAT WAS DOCUMENTED ON A SEXUAL ASSAULT SUSPECT FORENSIC EXAMINATION FORM.

1. DOES CIRCUMSTANCES POSSIBLY JUSTIFYING A WARRANTLESS ARREST JUSTIFY TRANSPORTING AN ARRESTEE TO ANOTHER LOCATION, AND AT THAT LOCATION, COMPELLING ARRESTEE TO SUBMIT TO INTRUSIVE POLICE COMPELLED EXAMINATION OF HIS PERSON?
2. ARE SEARCHES AND SEIZURES UNREASONABLE AND INVALID UNLESS BASED ON PROBABLE CAUSE AND EXECUTED PURSUANT TO A WARRANT?
3. DID ARRESTEE HAVE AN LEGITIMATE EXPECTATION TO PRIVACY IN NOT HAVING TO SUBMIT TO INTRUSIVE EXAMINATION OF HIS PERSON?
4. WAS POLICE COMPELLED EXAMINATION OF ARRESTEE'S PERSON INCIDENT TO A VALID ARREST?
5. WAS POLICE COMPELLED EXAMINATION UNREASONABLY INTRUSIVE?
6. WAS EVIDENCE PRODUCED FROM THAT INTRUSIVE POLICE COMPELLED EXAMINATION, THAT WAS LATER ANALYZED WITHOUT WARRANT, AN EXTENSION OF THAT FOURTH AMENDMENT VIOLATION?
7. WHAT ARE THE REMEDIES OF FOURTH AMENDMENT VIOLATIONS?
8. WHEN A COURT IMPROPERLY ADMITS INSUFFICIENT EVIDENCE INTO TRIAL, IN VIOLATION OF THE EXCLUSIONARY RULE, IS REVERSAL REQUIRED

QUESTION(S) PRESENTED

- UNLESS THE ERROR WAS HARMLESS BEYOND A REASONABLE DOUBT?
9. IF STATE APPELLATE COURT FAILS AND/OR REFUSES TO REVIEW, ON DIRECT APPEAL, TRIAL COURT'S SUPPRESSION RULING, THAT IT STATUTORIALLY IS MANDATED TO REVIEW, IS THAT FAILURE ENOUGH TO DENY PETITIONER HIS RIGHT TO RECEIVE A "FULL AND FAIR OPPORTUNITY" TO LITIGATE HIS FOURTH AMENDMENT CLAIMS, IN OVERCOMING THE STONE PROCEDURAL BAR?
10. DID POLICE GAIN A TACTICAL ADVANTAGE BY TRANSPORTING ARRESTEE TO ANOTHER LOCATION, WITHOUT MIRANDA WARNINGS OR CHARGES GIVEN, INSTEAD OF TO JAIL- AS IS THE PREREQUISITE FOR WARRANTLESS ARRESTS, WHERE POLICE FURTHER DETAINED ARRESTEE AT HOSPITAL FOR PURPOSES OF COMPELLING INTRUSIVE EXAMINATION, WHICH PRODUCED DNA AND BIOLOGICAL SPECIMEN(S)?
11. WAS THERE PRE-ACCUSTIONAL DELAY SUFFICIENT ENOUGH TO TRIGGER SPEEDY TRIAL VIOLATION BETWEEN ARREST AND ARRAIGNMENT?
12. DID POLICE HAVE JUSTIFICATION TO DISPENSE FROM NEUTRAL MAGISTRATE JUDGE'S DETERMINATION OF PROBABLE CAUSE AND ISSUANCE OF WARRANT, TO COMPEL ARRESTEE TO SUBMIT TO INTRUSIVE EXAMINATION?
13. DID POLICE HAVE JUSTIFICATION TO DISPENSE FROM NEUTRAL MAGISTRATE JUDGE'S DETERMINATION OF PROBABLE CAUSE AND ISSUANCE OF WARRANT, TO TRANSPORT DNA EVIDENCE SEIZED AS A PRODUCT OF THAT INTRUSION, THAT WAS IN THEIR CUSTODY FOR OVER 100 DAYS, TO OTHER AGENCY FOR TESTING, ANALYSIS, COMPARISON?

### QUESTION(S) PRESENTED

14. WAS ARRESTEE PREJUDICED BY THESE ACTION?

AS A PRODUCT OF POLICE WARRANTLESS ARREST, TURNED UNLAWFUL BY FAILURE TO ISSUE MIRANDA WARNING OR CHARGES, AND TRANSPORT AND DETENTION AT HOSPITAL FOR SOLE PURPOSE OF GAINING TACTICAL ADVANTAGE IN POLICE COMPELLED EXAMINATION OF ARRESTEE, POLICE ALSO TOOK ADVANTAGE OF ARRESTEE'S AGORAPHOBIA OF HOSPITAL, AND OVERWHELMED STATE OF MIND, TO ELICIT TWO INCRIMINATING STATEMENTS FROM ARRESTEE, THROUGH PSYCHOLOGICAL COERCION, WHERE ONLY ONE STATEMENT WAS PRESENTED AND USED AT TRIAL, WITHOUT TRIAL COURT ANALYSIS OR EXAMINATION OF CONTESTED CD-RECORDED INTERVIEW.

1. IN THIS INSTANCE, DID CUSTODIAL INTERROGATION UNDERMINE THE FIFTH AMENDMENT PRIVILEGE AGAINST SELF-INCRIMINATION?
2. DID POLICE INTERROGATE ~~ARRESTEE~~, WHILE UNLAWFULLY DETAINED AT HOSPITAL, WITHOUT FIRST ISSUING MIRANDA WARNING, THEN ISSUED MIRANDA WARNING AND INTERROGATED ARRESTEE A SECOND TIME, CONSTITUTING AN UNINFORMED CHOICE IN THE MATTER?
3. WAS STATEMENT A PRODUCT OF FOURTH AMENDMENT VIOLATION OF UNLAWFUL ARREST, TRANSPORT, DETENTION, SEARCH AND SEIZURE, FOR SOLE PURPOSE OF POLICE COMPELLED INTRUSIVE EXAMINATION?
4. DID TRIAL COURT ABUSE IT'S DISCRETION IN FAILING AND/OR REFUSING TO EXAMINE CD-RECORDED STATEMENT PRIOR TO ADMITTING SAID EVIDENCE INTO JURY TRIAL?

### QUESTION(S) PRESENTED

5. IF POLICE CONCEAL RECORDER AND ELICIT STATEMENTS FROM AN ARRESTEE, COERCE ARRESTEE INTO MAKING INCRIMINATING STATEMENTS, AND ONLY PRESENTS SOLITARY STATEMENT, DESPITE TWO STATEMENTS MADE, ~~SHOULD THAT MISCONDUCT BE A DETERMINING FACTOR IN~~ DECIDING WHETHER OR NOT THIS EVIDENCE IS INSUFFICIENT?
6. WHAT IS THE REMEDY FOR THE ERRONEOUS ADMISSION OF INSUFFICIENT EVIDENCE INTO JURY TRIAL?
7. ARE MIRANDA WARNINGS, ALONE, SUFFICIENT TO PURGE THE PRIMARY TAIN OF AN ILLEGAL ARREST AND DETENTION FROM FROM SUBSEQUENT INTERROGATION AND STATEMENTS GIVEN?
8. DID POLICE GAIN A TACTICAL ADVANTAGE, IN ADDITION TO COMPELLED EXAMINATION AND INTRUSION INTO ARRESTEE'S PERSON, WHERE POLICE ALSO OBTAINED CD-RECORDED STATEMENT?
9. WAS ARRESTEE PREJUDICED BY POLICE COMPULSION?

COURT-APPOINTED COUNSEL, ALTERNATE PUBLIC DEFENDER, FAILED TO DEFEND OR ASSIST IN DEFENSE, WHERE COUNSEL'S DIVIDED LOYALTIES, COUPLED WITH MANUFACTURED PROCEEDINGS, ALTERATION OF RECORDS CHANGING COUNSEL'S PRESENCE AND REPRESENTATION DURING SEVERAL PROCEEDINGS, RESULTED IN PERFORMANCE SO DEFICIENT, THAT DEFENDANT WAS FORCED TO CHOOSE BETWEEN CONFLICT OF INTEREST COUNSEL (AT TRIAL), AFTER TWICE BEING DENIED SUBSTITUTION, OR SELF-REPRESENTATION.

1. DOES COURT-APPOINTED COUNSEL'S PARTICIPATION IN MANUFACTURED DECLARED DOUBT COMPETENCY HEARING CONSTITUTE A DENIAL OF THE RIGHT TO COUNSEL AT A "CRITICAL" STAGE?

### QUESTION(S) PRESENTED

2. IF COURT-APPOINTED COUNSEL PRESENTS AN ACTUAL, POTENTIAL OR CONSTRUCTIVE CONFLICT OF INTEREST STEMMING FROM PRIOR REPRESENTATION, SHOULD COUNSEL HAVE BEEN ASSIGNED, LET ALONE CONTINUE TO REPRESENT DEFENDANT WHO CONFLICT IS WITH?

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3. DOES APPOINTED COUNSEL'S ABSENCE AND DIVIDED LOYALTIES PERVADE THE ENTIRE PROCEEDING IN VIOLATION OF THE SIXTH AMENDMENT?

4. WHEN DEFENDANT BECOMES AWARE OF COUNSEL'S ABSENCE FROM DEFENSE, WHERE DEFENDANT TWICE UNSUCCESSFULLY MOVES FOR COUNSEL'S SUBSTITUTION, AND DEFENDANT IS FORCED TO REPRESENT HIMSELF, IS HIS CHOICE VOLUNTARY?

5. DID DEFENDANT'S DENIAL OF RIGHT TO COUNSEL AFFECT JURY'S NINE MINUTE DELIBERATION AND VERDICT OUTCOME?

6. WAS DEFENDANT PREJUDICED BY DENIAL OF RIGHT TO COUNSEL?

LONG BEACH SUPERIOR COURT WAS BIASED, NON-NEUTRAL VENUE, WHICH ~~ALLOWED MANUFACTURED COMPETENCY HEARING, ALTERED COURT RECORDS,~~ AND POSSIBLE 48-HOUR MCLAUGHLIN VIOLATION, AND WHO ABUSED ITS DISCRETION IN EVIDENTIARY MATTERS, THE DETERMINATION OF WHICH DIRECTLY CONFLICTS WITH RELEVANT DECISIONS OF THIS COURT.

1. IS IT THE AUTHORITY OF THE TRIAL JUDGE TO ENSURE THAT A DEFENDANT RECEIVES A FAIR TRIAL?

2. SHOULD ANY JUDGE POSSESS BIAS OR PREJUDICE AGAINST A DEFENDANT, REGARDLESS THE ACCUSATION AND ALLEGATIONS OF CRIME COMMITTED?

### QUESTION(S) PRESENTED

3. IS IT AN EXCESSIVE OF JURISDICTION WHEN A TRIAL JUDGE CONDUCTS AN MANUFACTURED COMPETENCY HEARING, DIRECTLY AFTER AN IN-CUSTODY EXCESSIVE FORCE/TASERING INCIDENT, THAT PLACES A DEFENDANT IN THE HOSPITAL, WHERE- CONTRARY TO COURT RECORDS, SAID DEFENDANT ~~WAS NOT~~ PRESENT NOR IN ATTENDANCE, NOR HAD KNOWLEDGE OF HEARING?
4. IS IT A DENIAL OF THE RIGHT TO A FAIR TRIAL WHEN A TRIAL JUDGE CONDUCTS A MANUFACTURED COMPETENCY HEARING, DIRECTLY AFTER AN IN-CUSTODY PRE-TRIAL DETAINEE EXCESSIVE FORCE INCIDENT USED TO INTENTIONALLY SUSPEND FURTHER TRIAL PROCEEDINGS?
5. DID TRIAL COURT ABUSE IT'S DISCRETION IN DETERMINATION OF EVIDENTIARY HEARING DENIAL OF FOURTH AMENDMENT SUPPRESSION MOTION?
6. DID TRIAL COURT ABUSE IT'S DISCRETION IN DETERMINATION OF ADMISSION OF CD-RECORDED STATEMENT WITHOUT COURT'S EXAMINATION INTO VOLUNTARINESS OF STATEMENT, INTO JURY TRIAL?
7. DID TRIAL COURT ALTER, CHANGE, OR MODIFY ARRAIGNMENT DATE, SO ~~AS~~ AS TO BE IN COMPLIANCE WITH 48-HOUR MCLAUGHLIN RULE, AND TO HAVE JURISDICTION OVER DEFENDANT AND ALLEGATIONS?
8. WERE POST-ACCUSATIONAL DELAY VIOLATIONS HAD BETWEEN ARREST AND ARRAIGNMENT?
9. IS IT AN ABUSE OF DISCRETION FOR SAME TRIAL COURT JUDGE WHO PARTICIPATED IN MANUFACTURED DECLARED DOUBT COMPETENCY HEARING, TO LATER DENY SUBSTITUTION OF APPOINTED COUNSEL UPON DEFENDANT'S REQUEST?

**QUESTION(S) PRESENTED**

10. DID TRIAL COURT ELICIT PERJURED TESTIMONY, AT TRIAL, FROM PROSECUTION'S EXPERT WITNESS, ONCE PRO SE DEFENDANT EXTRACTED DISCREPENCY BETWEEN EXPERT'S SOLE ANALYSIS AND FINDINGS, THAT STATED DEFENDANT WAS EXCLUDED AS CONTRIBUTOR TO DNA SAMPLE, ~~CONTRARY TO TESTIMONY GIVEN?~~

11. WAS DEFENDANT PREJUDICED BY TRIAL COURT'S ACTIONS/IN ACTIONS THE DURATION OF CASE NA083045?

DEPUTY DISTRICT ATTORNEY COMMITTED MISCONDUCT BY PARTICIPATING IN, MANUFACTURING, OR HAVING KNOWLEDGE OF MANUFACTURED COMPETENCY HEARING, GOING FURTHER IN POSSIBLY ALTERING COURT RECORDS TO CONCEAL IT'S PARTICIPATION IN SEVERAL PROCEEDINGS, INCLUDING ARRAIGNMENT, WHERE PROSECUTION POSSIBLY ALTERED ARRAIGNMENT DATE, MISLEAD TRIAL COURT INTO BELIEF THAT IT EXAMINED CD-RECORDED STATEMENT, AND INDUCED IT'S EXPERT WITNESS TO COMMIT PERJURY.

1. DID PROSECUTION COMMIT MISCONDUCT BY PARTICIPATING IN, OR ~~MANUFACTURING COMPETENCY HEARING, USED TO SUSPEND FURTHER~~ PROCEEDINGS, DIRECTLY AFTER AN IN-CUSTODY EXCESSIVE FORCE INCIDENT?

2. DID PROSECUTION ALTER, CHANGE OR MODIFY COURT RECORDS TO CONCEAL IT'S PARTICIPATION IN QUESTIONABLE PROCEEDINGS?

3. DID PROSECUTION ALTER ARRAIGNMENT DATE SO THAT IT COULD FILE CHARGES, WHERE IT LOST JURISDICTION TO DO SO, DUE TO ALMOST 96-HOUR LASPE IN TIME?

**QUESTION(S) PRESENTED**

4. DID PROSECUTION USE "IMPROPER METHODS CALCULATED TO PRODUCE A WRONGFUL CONVICTION"?
  5. DID PROSECUTION'S MISCONDUCT PERVADE THE ENTIRE PROCEEDING, VIOLATING DEFENDANT'S RIGHT TO DUE PROCESS?

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  6. WHAT IS THE REMEDY FOR PROSECUTORIAL MISCONDUCT OF THIS MAGNITUDE?
  7. DID PROSECUTION INDUCE IT'S EXPERT WITNESS TO PERJURE HERSELF ON TESTIMONY OF DNA CONCLUSIONS CONTRARY TO HER REPORT AND CONCLUSIONS, AT TRIAL?
  8. WAS DEFENDANT PREJUDICED BY PROSECUTION'S MISCONDUCT?
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## 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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OTHER

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.

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**OPINIONS BELOW**

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A-1 to the petition and is

☒ reported at 9th Cir. case no.: 16-55317; 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 ~~B4~~; ~~B14~~ to the petition and is

☒ reported at C.D.Cal. case no. 2:12-cv-07881DOC; or, (OPx) (KK)  
☐ 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 \_\_\_\_\_ to the petition and is

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

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_\_ 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 5/2/2016.

☐ 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: 6/12/2017, 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 \_\_\_\_\_.  
A copy of that decision appears at Appendix \_\_\_\_\_.

☐ 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

1. EXCESS OF JURISDICTION: trial court's departure from those recognized and established requirements of law, however close apparent adherence to mere form in method of procedure, which has effectively deprived defendant of a constitutional right.
2. PRODUCTION OF COURT TRANSCRIPT/UNSEALING: court reporter's oral transcript of sealed Marsden hearing, arraignment, and competency hearing.
3. HABEAS RULE 2(c)(1)&(2): the petition must: specify all the grounds for relief available to the petitioner; state the facts supporting each ground.
4. HABEAS RULE 4: preliminary review of petition; serving the petition and order: the clerk must promptly forward the petition to a judge under the court's assignment procedure, and the judge must promptly examine it.
5. HABEAS RULE 11: applicability of FEDERAL RULES OF CIVIL PROCEDURE, to the extent that they are not inconsistent with any statutory provisions of these rules, may be applied to a proceeding under these rules.
6. FRCP, RULE 60(b): motion for relief from judgment, for: (1) mistake, inadvertence, surprise, or excusable neglect; (3) fraud (whether intrinsic or extrinsic); (4) void judgment; and (6) any other reason that justifies relief.

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

7. LACK OF JURISDICTION: it may consist in court's total want of power to act at all, or lack of power to act in particular case because conditions essential to exercise of jurisdiction have not been complied with, or may consist of lack of jurisdiction over subject matter or over person.
8. 28 USC §2241: jurisdiction and venue; a prisoner may file a §2254 petition in the district court (division), and county in which he was convicted or sentenced.
9. 28 USC §2254(a)-(i): remedies in federal courts
10. SUPREME COURT RULE 10: considerations governing review of certiorari.
11. FOURTH AMENDMENT: warrantless arrest requirements, warrantless search and seizure, searches not incident to a valid arrest, transport of arrestee to another location for sole purpose of compelling search, intrusive examination searches, custodial interrogation- product of investigatory detention and search, lack of attenuation between violation and evidence seized or obtained, exclusionary rule.
12. FIRST AMENDMENT: right to petition government for redress of grievance.
13. FIFTH AMENDMENT: right to be free from self-incrimination, due process of law, and failure of court to examine voluntariness of statement prior to admitting evidence into trial.

#### CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

14. SIXTH AMENDMENT: scope and application on right to fair trial, right to assistance of counsel at critical stage, waiver of right to counsel and pro se representation voluntariness, conflict of interest, and ineffective assistance of counsel.
15. ~~FOURTEENTH AMENDMENT~~: due process of law and equal protection of the laws.
16. ARTICLE III, §1, U.S. CONSTITUTION: The judges of both the supreme and inferior COURTS, shall hold their OFFICES during good BEHAVIOR...
17. ARRAIGNMENT/PROBABLE CAUSE DETERMINATION: date and participants altered/changed to be in compliance with MCLAUGHLIN rule. Court-appointed counsel not stated on record, nor prosecution who signed felony complaint.
18. SPEEDY TRIAL: safeguards against pre-accusational delay, constitutional safeguards against post-accusational delay.
19. COMPETENCY TO STAND TRIAL: competency hearings, finding of fact, presumption of correctness, contrary or unreasonable application of clearly established federal law as articulated by the SUPREME COURT, and unreasonable determination of the facts in light of the evidence.
20. ABUSE OF DISCRETION: failure to exercise sound, reasonable and legal discretion. In its strict legal term indicating that Appellate Court is of the opinion that there was commission of an error of law by the trial court.

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

21. PROSECUTORIAL MISCONDUCT/ SELECTIVE PROSECUTION: Prosecution's improper motivations, undertaken in bad faith, deliberately based on unjust standards and classification of defendant accused of sexually based offenses; entitlement to discovery to help prove selective prosecution claim; improper methods used calculated to produce a wrongful conviction, including knowingly presenting expert testimony known to be false and contrary to findings.
22. SUPPRESSION HEARINGS, PURSUANT TO CA. PEN. C. §1538.5: trial court conduct one evidentiary hearing limited to custody and detention, refused to conduct full evidentiary hearing on search and seizure of DNA or cd-recorded statement. Trial Court refused to produce oral transcript of sole evidentiary hearing for Second Appellate review through petition for Writ of Mandate, where court-appointed appellate counsel refused to raise statutorially mandated review, pursuant to §1538.5(m), on direct appeal, thus denying petitioner his right and opportunity to litigate his FOURTH AMENDMENT claims in state court.

### STATEMENT OF THE CASE

A chronological time line from the NINTH CIRCUIT Court of Appeals, from last notice/decision/inquiry to first, is as follows: After Ingram was given his first notice to correct certiorari, pursuant to SUP CT RULE 14.5, he contacted the appellate court ~~regarding opinions for case(s) 16-55317 and 14-56319, of which he~~ received these response. In case 16-55317, Ingram received a duplicate copy of the order and opinion, dated May 4, 2017, (APPENDIX A, EXHIBIT 2), where in response to case 14-56319, he received a docket summary that includes Ingram's request for production of opinion at docket 12.(APPENDIX A, EXHIBIT 2). Both of these cases address separate procedural aspects from district court case 2:12-cv-7881DOC(KK), where case 16-66317 addressed fact that district court judge and magistrate, both, operated under guise and title of "Western Division-Los Angeles", though neither judge has court in that division. Ingram was mislead into believing that his federal habeas corpus proceedings were conducted in the county/division/district, in which he was convicted, not that his case would be piece mealed between two courts that are not representative of the title and filing indicated on the filing notice.(see, APPENDIX A, EXHIBIT 3, U.S. District Court Central District of California, Western Division, dated 9/13/12). Ingram reasonably believes that due to the possible fraudulent events that found his case before a court that he was not assigned to, that the possibility of biasness, potentially from the circumstances of Ingram's case, did not result in a reliable determination of mixed questions of law and fact, in

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rendition of habeas judgment, of which appellate review was sought in case 14-56319. A chronological history of events, from last to first, is as follows: On June 12, 2017, the 9th Cir., in case 16-55317, denied reconsideration (APPENDIX A, EXHIBIT 4), from motion that was submitted on May 25, 2017. (APPENDIX A, EXHIBIT 5). On May 4, 2017, the 9th Cir. denied COA, in opinion. (APPENDIX A, EXHIBIT 6). On March 2, 2016, Ingram received notice of receipt of appeal/request for COA. (APPENDIX A, EXHIBIT 7). For approximately 16 months, the 9th Cir. possessed appeal. Also, on March 2, 2016, the district court denied as moot request for extension. (APPENDIX A, EXHIBIT 8). Continuing with the chronological order in reverse, the following records are lodged in APPENDIX B, from proceedings in the district court: On January 19, 2016, the U.S. Central District Court of California, issued Judgment (APPENDIX B, EXHIBIT 1), Order Denying COA (APPENDIX B, EXHIBIT 2), and Order Accepting Findings and Recommendation of U.S. Magistrate Judge (APPENDIX B, EXHIBIT 3). Notice of Magistrate's Report and Recommendation was filed on December 9, 2015. (APPENDIX B, EXHIBIT 4), as well as, the actual report. (APPENDIX B, EXHIBIT 5). On January 11, 2016, Ingram submitted Objection to R & R. (APPENDIX B, EXHIBIT 6). On December 1, 2015, Ingram submitted Reply to Respondent's Limited Non-Opposition Response. (APPENDIX B, EXHIBIT 7). On October 6, 2015, Respondent filed Limited Non-Opposition Response. (APPENDIX B, EXHIBIT 8). On July 8, 2015, Ingram, submitted FRCP, RULE 60(b) Notice and Motion. (APPENDIX B, EXHIBIT 9).

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Continuing chronological history in reverse, from case 14-56319, the 9th Cir. denied COA for habeas review on March 20, 2015. (APPENDIX A, EXHIBIT 9). On August 14, 2014, Ingram received notice of receipt of appeal/request for COA.(APPENDIX A, EXHIBIT 10). That concludes 9th Cir. entries at APPENDIX A, where no opinion was stated in appellate court's denial of habeas review. If it pleases this COURT, might it possibly incorporate the "look through" standard since no opinion exists at the 9th Cir. If so, then district court has opinion cited at R & R of U.S. Magistrate. On July 19, 2014, the district court issued the following: Judgment (APPENDIX B, EXHIBIT 10), Denial of COA (APPENDIX B, EXHIBIT 11), and Order Accepting Findings, Conclusions and Recommendations of U.S. Magistrate Judge.(APPENDIX B, EXHIBIT 12). On June 12, 2014, the second appointed Magistrate Judge filed Notice of R & R (APPENDIX B, EXHIBIT 13), and R & R (APPENDIX B, EXHIBIT 14). Docket Summary Record is lodged at (APPENDIX B, EXHIBIT 15), that changed the Magistrate for the third time. Ingram also submits unfiled First Amended Complaint, had he been given leave to file such.(APPENDIX B, EXHIBIT 16). On September 13, 2012, Ingram filed petition for Writ of Habeas Corpus.(APPENDIX B, EXHIBIT 17). Only five out of eighteen claims were filed, where Ingram was not given notice, nor opportunity to correct any discrepancies with initial filing. Instead, the petition was interpreted conservatively without regard to filing instructions stated on petition to add additional pages if petition raises more than five claims for relief, which Ingram did and was ignored.

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On May 9, 2012, CALIFORNIA SUPREME COURT denied Habeas Corpus, S199442.(see, APPENDIX C- EXHIBIT 1). On January 17, 2012, Petition for Writ of Habeas Corpus was submitted.(see, APPENDIX C EXHIBIT 2). On May 10, 2012, CALIFORNIA SUPREME COURT denied Reconsideration. (see, APPENDIX C- EXHIBIT 3). On May 24, 2012, CALIFORNIA SUPREME COURT denied Reconsideration, again.(see, APPENDIX C- EXHIBIT 4). On October 10, 2012, CALIFORNIA SUPREME COURT denied subsequent Habeas petition, S203337.(see, APPENDIX C EXHIBIT 5). On June 14, 2012, subsequent Habeas petition was submitted.(see, APPENDIX C- EXHIBIT 6). On October 24, 2012, CALIFORNIA SUPREME COURT denied Resconsideration of subsequent petition.(see, APPENDIX C- EXHIBIT 7). On October 24, 2012, SECOND APPELLATE COURT OF APPEALS denied Habeas petition in case B242353.(see, APPENDIX C- EXHIBIT 8). On November 28, 2011, SECOND APPELLATE COURT Affirmed Judgment.(see, APPENDIX C EXHIBIT 9). On July 28, 2011, SECOND APPELLATE COURT denied collateral attack petition Habeas Corpus, filed by Appellant, that was in conjunction to direct appeal, case B234666.(see, APPENDIX C EXHIBIT 10). SECOND APPELLATE COURT also sent informal notice to Appellant stating it's policy not to accept motions, briefs, etc. from Appellants with counsel.(see, APPENDIX C EXHIBIT 11). On March 16, 2011, California Appellate Project sent Appellant informal notice supporting court-appointed counsel's decision not raise FOURTH AMENDMENT claims.(see, APPENDIX C EXHIBIT 12). On January 27, 2011,

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SECOND APPELLATE COURT denied Petition for Writ of Mandate, case B228790.(see, APPENDIX C- EXHIBIT 13). On February 14, 2011, Appellant's Opening Brief was submitted.(see, APPENDIX C- EXHIBIT 14). On March 29, 2011, SECOND APPELLATE COURT denied Habeas relief, case B231472.

(see, APPENDIX C- EXHIBIT 15). On December 9, 2010, SECOND APPELLATE COURT appointed counsel.(see, APPENDIX C EXHIBIT 16). Court-Appointed Counsel correspondence with Appellant occurred on the following dates: 12/30/10; 1/12/11; 3/1/11; 1/16/11; 1/28/11; 2/14/11; 2/23/11; 7/8/11; 7/14/11; 7/20/11; and 10/5/11.(see, APPENDIX C- EXHIBIT 17).

On August 24, 2009, Ingram was headed to the bus depot downtown Long Beach to catch the bus to Long Beach City College for a 7:30 a.m. English class.(see, APPENDIX DD EXHIBIT 1). On his way there, Ingram walked down 1st Street from Alamitos Avenue, where this business district has street surveillance cameras up and down 1st Street. Ingram tried, unsuccessfully, to obtain footage from these cameras, but was unsuccessful, due to trial court's unwillingness to compel production after subpoena was ignored.(see, APPENDIX D- EXHIBIT 2, Subpoena). Had footage been produced, it would have rebutted the testimony of witness claiming that Ingram came to his mother's business with blood on his shirt that witness thought was a design. Elijah Inegebeje's testimony was inflammatory and possibly induced by prosecution, which supported prosecution's theory.(see, Case NA083045, Oral Transcript, dated 7/8/10, pgs. 964-975; APPENDIX D EXHIBIT 3). Had Ingram been provided street surveillance camera footage

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he would have been able to impeach Elijah's testimony with camera footage evidence showing that Ingram first approached his mother's business looking for employment and did not return after the circumstances that took place at the coffee shop. It would have been apparent, with this evidence, that Elijah lied and committed perjury.

After receiving a business card from Elijah, for his mother's bakery business, Ingram continued on his route to the bus stop, walking down 1st Street. Ingram crossed Linden Avenue and encountered Monique Berthiaume (alleged victim), setting up to open for business outside a coffee shop. Ingram introduced himself and stated his reason for interrupting her, due to his seeking employment. She assessed Ingram's appearance with, what he believes now, was an almost quizzical irritated look, but countered with pleasantries and invited him inside the business. Monique went about her business setting up inside the business, while Ingram sat at the counter and patiently waited for her to finish, where Ingram logged on to a chat line called Hooked on his cellphone. (see, APPENDIX D EXHIBIT 4, Long Beach Police Dept.'s Property Inventory Record-"duffle bag, with books, cd's, cellphone and wallet). Ingram's cellphone was placed into evidence, where production of this evidence log time from the chat line service would also disprove prosecution's time line and theory of the incident. It would also go towards showing Ingram's frame of mind, in that, Ingram's thoughts were displayed on this chat line service. After some time Monique went to the back

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of the coffee shop and was gone from view for some time. Ingram checked the time on his cellphone and logged of the chat line to go let Monique know that he would be leaving so as not to be late for his class. Ingram went to the doorway and saw Monique chopping vegetables with a large butcher's knife. Ingram cleared his throat, but did not receive a response, so he asked Monique if he could receive a business card or application or contact information, where Monique- who never looked up at Ingram, nor stopped chopping vegetables, mumbled under her breath, but loud enough for Ingram to hear, "fucking niggers". Ingram, taken aback, responded, "what bitch", stepping into the back room and standing his ground. Monique responded again, screaming "fuck niggers" and attacked Ingram, who could only back peddle out of her reach and striking her with his fists, at the same time until Monique fell dropping the knife. Ingram kicked the knife away from Monique's reach and noticed that blood was pooling in her left eye. Ingram attempted to help Monique by trying to stem the flow of blood with the lower right corner of his white t-shirt, and at no time did any of the allegations he was accused of, where he never touched the knife. In fact, Ingram was denied adversarial testing of the butcher's knife, despite allegations that Monique was sexually assaulted at knife point. (see, APPENDIX D EXHIBIT 5, LBPD, Property Inventory Record of "knife w/ vics blood"). Ingram's Motion for Testing of Butcher's Knife for Fingerprint, DNA, and Exemplars, was denied and omitted from direct appeal record. (compare, Trial Court's Appeal Transcript Chronological Index, at

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5/27/10 dated entries; APPENDIX D - EXHIBIT 6; to Trial Court Minute Order, dated 5/27/10, stating defendant [Ingram] filed Motion for Production of Fingerprint Exemplars [from butcher's knife], not contained in appeal records, APPENDIX D - EXHIBIT 7). The relevance of this fact is two-fold. One, testing of butcher's knife and findings that Ingram did not touch nor possess knife would show that Monique's allegations are flawed and could not be substantiated, where, and in conjunction to fact that none of Ingram's DNA was found in or on Monique, would disprove prosecution's case entirely, that Monique suffered sexual assault at the hands of Ingram. Taking the knife out of the equation, other questions would arise of why wasn't there any defensive wounds, scratches, etc.? The context and course of conduct of the allegations would have to be altered to conform with a newly developed theory, but why do that when all that needs to be done is deny Ingram (a pro per defendant), any adequate adversarial testing and flood jury trial with insufficient inflammatory evidence to overwhelm the jury's senses in their rendering a nine minute deliberation and guilty verdict. However, prosecution was still permitted to present physical presentation of the knife, at it's opening statement, visually inflaming the minds of the jury with evidence that did not receive adversarial testing.(see, Oral Trial Transcript, Prosecution's Opening Statement discussing knife, dated 7/6/10, pg. 310 (partial record), lines 23-24, APPENDIX D EXHIBIT 8).

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Continuing, after a few moments of Ingram using his t-shirt as a compress, Monique told Ingram to "get the fuck off of her and get the fuck out" that she "wouldn't call the police", which Ingram immediately stood up and wiped his hands on a wad of paper towels (that he retrieved from the dispenser), gather his bookbag and cell-phone and walked slowly out the door and back toward Linden Avenue. At Linden Avenue, Ingram walked towards Broadway and then back down Broadway towards Long Beach Boulevard. Ingram, walking slowly and with his head down, almost bumped into a pedestrian walking the opposite direction, who turned out to be an ex-girlfriend, Jennifer, who was on her way to a job interview. She instantly saw the dazed look on his face and assessed his appearance, then inquired about the blood at the bottom of his t-shirt. Ingram reasonably believed, then, in that moment, that he would be accused of wrong-doing, and told Jennifer that he would call her later and explain everything. Ingram continued down Broadway and turned left into an alleyway that connects 1st Street and Broadway. Halfway down the alley, Ingram stopped to urinate, and was oblivious of the effect that his not washing his hands would have upon his freedom, where the only possible way Monique's DNA could have gotten on his police compelled DNA sample, was through his urinating in that alley without washing his hands directly after the incident with Monique. Ingram did not sexually assault Monique in any shape, form or fashion. After urinating, Ingram came out of the alley on 1st Street and walked up to the coffee shop window, where he observed two men talking to Monique. No sooner

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than Ingram was going to confront Monique and tell those men his version of the events, the police and fire department arrived.

Ingram was arrested on a warrantless arrest, without charges nor Miranda warnings issued by arresting officer, where Ingram was transported from alleged crime scene to Community hospital and detained there for purposes of gaining a tactical advantage through police compelled S.A.R.T. (Sexual Assault Rape Test) examination and interrogation recorded without Ingram's knowledge, where recorder was concealed and where more than one interrogation occurred, but only one recording was presented. Proof that Officer Martinez did not issue warning or charges is contained in his testimony at sole evidentiary hearing limited to detention and custody, where he admits fact that he arrested Ingram without issuance of Miranda warning and failed to issue reason for arrest, before transporting Ingram to Community hospital for S.A.R.T. examination.(see, APPENIX D- EXHIBIT 9, (partial) oral transcript of sole evidentiary hearing, pp. B4, lines 25-28, B5, lines 1-28, examination of Officer Martinez). Officer Martinez transported Ingram to Community hospital at the instruction of Officer Kirk, where Officer Kirk stated that she "need[ed] SART info".(see, Long Beach Police Dept. Calls-For-Service Inquiry Response Record at time 7:59:08, Unit 1B78, identifying Officer Kirk; at time 08:04:48, Unit 1B67, Identifying Officer Martinez, and at time 08:19:19, Unit 1B78, stating "need SART info", and at time 08:39:08, where Unit 1B67, responded "Community w/1"; APPENDIX D. EXHIBIT 10).

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Upon Officer Martinez pulling into Community hospital entrance, Ingram became instantly fearful that he was going to be subjected to treatment similar or worse than what he received five months prior, on March 28, 2009, where after an excessive force/taser incident, Ingram was transported back to Community hospital, sedated until he was unconscious through intravenous injection, and placed in four point restraints upon regaining consciousness, where afterwards, he was placed in a psychiatric unit for 72 hours.(see, Informal Request for Investigation to Long Beach Police Dept., APPENDIX D - EXHIBIT 11; Long Beach Police Reports by Officer(s) Magallanes and Hernandez, with photo documentation of 3/28/09 incident, APPENDIX D- EXHIBIT 12; Long Beach Police Dept. Jail Report (manufactured narrative), that resulted in Ingram's armed escort back to Community hospital, APPENDIX D- EXHIBIT 13; Community Hospital records of the 3/28/09, incident, APPENDIX D- EXHIBIT 14; and related case CV-11-5962DOC(FMO) information and settlement on excessive force/taser incident, APPENDIX D- EXHIBIT 15). Had Ingram been provided adversarial testing of cd-recorded statement, where no testing was permitted by trial court, he would have been able to demonstrate that his will was overborne and that he was overwhelmed and fearful for his life, due to the 3/28/09, incident, in showing that his statement was not the product of free will. Inducing Ingram's irrational emotional response, was how police compelled S.A.R.T. examination, where i.v. was drawn and Ingram was handcuffed to gurney, just as in 3/28/09 incident.

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Police compelled S.A.R.T. examination that was neither consented, nor based upon warrant or exigency, where this search and seizure was not incident to a lawful arrest.(see, Forensic Medical Report: Sexual Assault Suspect Examination. dated 8/24/09, APPENDIX D- EXHIBIT 16). At the same time examination was being conducted on Ingram, Detective Solomita interrogated him, where Det. Solomita concealed his recorder, did not inform Ingram of the recorder or intent to record conversation/interrogation, which produced only one recorded statement, despite second interrogation referring back to first interrogation, at the very beginning.(see, CD-Recorded Statement, APPENDIX D- EXHIBIT 17). Monique Berthiaume also consented to a S.A.R.T. examination.(see, APPENDIX D- EXHIBIT 18). On March 24, 2010, Biological Evidence & DNA Examination Report was issued that excluded Ingram from any of Monique's samples, which is significant in showing that no sexual improprieties occurred, given the amount of contact alleged, that type of contact alleged, and key factors addressed that would be indicators that the findings were accurate and viable. However, Monique's DNA was allegedly detected in Ingram's DNA sample, and as explained early (p.18), Ingram touched himself with his hands that still had traces of her blood on them, when he urinated in the alley.(see, Biological Evidence & DNA Examination Report, dated 3/24/10, APPENDIX CD- EXHIBIT 19). There should have been overwhelming evidence of Ingram's DNA in or on Monique, given the sexual improprieties he was accused of, where to orally copulate, rape, then rape again... anyone, would leave

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evidence of these personal intrusions, especially if the alleged victim did not have sex with anyone within five days, did not wash nor use the restroom after the alleged assault, and consented to examination shortly after the alleged incident.

Ingram submitted a brief explaining these events on April 30, 2010.(see, Partial oral transcript, P. E9, lines 12-27, concerning Exparte Defendant's Brief, APPENDIX D- EXHIBIT 20). Court minute order misconstrues exparte brief as "motion"(see, APPENDIX D EXHIBIT 21), where trial court intentionally omitted exparte brief from direct appeal record.(compare, Appeal Transcript Chronological Index, page 2 of 3, APPENDIX D- EXHIBIT 6; with APPENDIX D- EXHIBIT 22, Appeal Transcript Chronological Index, page 1 of 3). Nowhere in Appeal Transcript Chronological Index records does it state, make reference to, or acknowledge record of Ingram's Exparte Defendant's Brief.

The timeline of events from warrantless arrest was approximately 08:11:09 hours(see, Calls-For-Services Inquiry Response Police Record, APPENDIX D- EXHIBIT 10), where Ingram was transported to Community hospital from alleged crime scene at 08:39:08 hours.(see, APPENDIX D EXHIBIT 10). Ingram was then detained at Community hospital for purposes of gaining a tactical advantage through police compelled S.A.R.T. examination, where he was admitted at 0930 hours and discharged at 11:40 hours.(see, Forensic Suspect Report, APPENDIX D EXHIBIT 16). Estimated time from warrantless arrest to booking is ruffly 3½ hours, however, Officer Kirk's report states that Ingram

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was arrested at 08:29:00 hours and that he was booked at 12:57:00 hours, approximately 4½ hours between arrest and booking.(see, Officer Kirk's Police Report, APPENDIX E- EXHIBIT 1). Detective Solomita and Officer Betanzos also submitted supplemental reports on the incident.(see, APPENDIX E EXHIBITS 2 & 3). Live Scan was conducted on Ingram, indicating that DNA was not needed, "Do Not Collect DNA: Sample Typed/Analyzed".(see, APPENDIX E- EXHIBIT 4). Minut Order Screen for case NA083045 is submitted.(see, APPENDIX E EXHIBIT 5). Undated, unstamped, felony complaint, signed by Robert Hight, D.D.A., was (allegedly) filed on August 26, 2009.(see, APPENDIX E- EXHIBIT 6). However, court records on this same date state prosecution other than Robert Hight at arraignment, as records also state appointed counsel other than Kwang Chul Ma (K.C. Ma), for the defense. Yvonne Velazquez did not represent Ingram at anytime during the course of proceedings, where it is reasonably believed that Robert Hight was present during arraignment, and that arraignment date was altered from 8/28/09 to 8/26/09, to appear adherent to due process of law. K.C. Ma was sole defense counsel to represent Ingram, up until Ingram was forced to represent himself. On December 9, 2009, Prosecution's Investigator, Det. Solomita, took Ingram's and Monique's S.A.R.T. kits and other DNA samples, without court order nor warrant, to Los Angeles County Sheriff's Dept. Crime Lab for DNA analysis and comparison.(see, APPENDIX E- EXHIBIT 7). This DNA and S.A.R.T. kits was in Long Beach Police custody for over 100 days before it was transferred for testing.

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On December 29, 2009, Robert Hight filed Amended Felony Complaint that was stamped/dated, but, however, was filed without notice nor opportunity to defend, where Ingram nor appointed counsel was present. (see, APPENDIX E- EXHIBIT 8). Why wasn't the original complaint stamped, but the amended complaint was?(compare, APPENDIX E. EXHIBIT 6, Original Complaint, to EXHIBIT 8, Amended Complaint). Original Complaint is ambiguous in its conception, where complained of errors at arraignment, of altered participants and date, ties into possible reason why original complaint was not stamped where the amended complaint was. Marsden Hearing of January 21, 2010, addresses these issues(see, APPENDIX E- EXHIBIT 9), briefly, but Marsden Hearing that was sealed and omitted from direct appeal record, of November 6, 2009, would definitively put this issue to rest of previous proceedings.(see, APPENDIX E- EXHIBIT 5, at 11/6/2009,proceeding, Minute Order Screen). On March 8, 2010, Ingram submitted Pro Per Suppression Motion on Evidence Seized Without Warrant, Pursuant to Ca. Pen. C. §1538.5.(see, APPENDIX E. EXHIBIT 10). Minut Order also supports Ingram's submission of motion on this date.(see, APPENDIX E EXHIBIT 11). On March 24, 2010, trial court conducted sole evidentiary hearing, limited to chain of custody and detention.(see, APPENDIX E EXHIBIT 12, Evidentiary Hearing, pp. B1-B61). Trial Court denied evidentiary hearing, in direct conflict with relevant decisions of THIS COURT, and refused to examine or provide adversarial testing of cd-recorded statement made under duress.(APPENDIX E. EXHIBIT 12, at B34-38, lines 1-16).

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On April 30, 2010, proceedings addressed a number of issues, including:(1) an in-custody assault incident by inmates encouraged by Sheriff's Deputies(pp. E12-E15, lines 1-2); (2) sole representation by appointed counsel, K.C. Ma. from arraignment to self-representation (p. E15, lines 6-13); (3) subpoena(s) that trial court refused to compel(p. E17-E18, lines 1-17); (4) petition for writ of mandate and request for transcripts of proceeding of sole evidentiary hearing (p. E18, lines 20-26); and (5) Ingram's multiple tasing incident(s) (pp. E21-E24, lines 1-14), that coincides with the need for examination of cd-recorded statement.(see, APPENDIX E- EXHIBIT 13, 4/30/10, proceeding, pp.E1-E37). On June 30, 2010, trial court forced Ingram, an unready pro per defendant, to trial.(see, APPENDIX E- EXHIBIT 14, 6/30/10, pp. F1-F12). Trial Court refused to conduct full evidentiary hearing on S.A.R.T. examination or cd-recorded statement.(pp. F2, lines 9-28, F3, lines 1-27; APPENDIX E- EXHIBIT 14) Trial Court denied independent testing and analysis of DNA/S.A.R.T. kits(F10, lines 16-23, through F12). Lastly, SECOND APPELLATE COURT denied petition for writ of mandate, B225139, dated 6/23/10, and subsequent petition, B225971, dated 7/27/10, due to failure to provide oral transcript record, that trial court refused to produce.(see, APPENDIX E EXHIBITS 15 & 16).

On July 7, 2010, Prosecution's Expert Witness testified regarding the testing and results of DNA/S.A.R.T. kits.(see, APPENDIX E- EXHIBIT 17, Oral trial transcript testimony of Lori Schumann, Senior Criminalist, pp. 678-727). Prosecution's Expert Witness perjured herself on the stand by contradicting her report and findings, with testimony contrary

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to those findings, stating that male DNA was detected, but was overwhelmed by female DNA, thus comparison could not be made. This testimony was vague and ambiguous, as well as, highly inflammatory, where report and findings states Ingram is excluded as a possible contributor to this specimen.(compare, APPENDIX D EXHIBIT 19, L.A.S.D. Biological Evidence & DNA Examination Report, dated 3/24/10, to 7/7/10, expert testimony at APPENDIX E EXHIBIT 17). However, prosecution's expert witness could not initially answer why her report and testimony contradicted one another and reverted to vague and ambiguous responses, once trial court interceded to allow witness to compose herself once she was caught in her lie.(pp. 703, lines 18-28, and 704, lines 1-28, APPENDIX E EXHIBIT 17).

Lastly, On July 8, 2010, jury deliberated for nine minutes (APPENDIX E EXHIBIT 18, Minute Order dated 7/8/10, p.2, stating bailiff is sworn to take charge of the jury and the jury commences deliberation at 4:13 p.m. and concludes at 4:22 p.m.), where jury found Ingram guilty of all four counts charged.(see APPENDIX E EXHIBIT 19, guilty verdict forms (4X), dated 7/8/10). At 4:25 p.m. the jury returned with its verdict.(see, APPENDIX E- EXHIBIT 20, Minute Order, dated 7/8/10). Ingram was sentenced to 39 years.(see, APPENDIX E EXHIBIT 21, Abstract of Judgment). Ingram filed an Notice of Appeal citing Ca. Pen. C. §1538.5(m), in conjunction to other provisions for the right to appeal.(see, APPENDIX E EXHIBIT 22, Notice of Appeal).

## REASONS FOR GRANTING THE PETITION

Judgment rendered in state trial court case NA083045, is unreliable, where resulting conviction was had through constitutional violation(s), substantial and injurious effect or influence of error, and prejudice. see, e.g. Puckett v. U.S., 556 US 129 (2009)(plain error standard followed); Kyles v. Whitley, 514 US 419, 435 (1995) (once it has been determined that there has been constitutional error, further harmless-error review is not necessary). Differing standards of review compare, Chapman v. Ca., 386 US 18, 24 (1967)(standard for reviewing constitutional error), with Kotteakos v. U.S., 328 US 750, 756 (1946)(standard for reviewing non-constitutional error). The facts underlying these claims, if proven and viewed in the light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offenses.

To warrant reversal of a conviction for misconduct of the trial [court], such misconduct must be so definite and apparent as to leave little doubt that it resulted in depriving the accused of a fair and impartial trial. Any 'irregularity' in the conduct of the trial court and its possible effect on the outcome of the case can be considered on appeal only to the extent that the facts in relation thereto are clearly set forth in record. (see, People v. Rocha, 130 Cal. App.2d 656, 663 (1955))

Certificate of Appealability requirement provided in 28 USCS §2253(c) applies to order denying FRCP 60(b) motion for relief from

### REASONS FOR GRANTING THE PETITION

judgment denying 28 USCS §2254 habeas corpus petition.(Kellogg v. Strack, 269 F.3d 100(2d Cir. 2001),cert den., 535 US 932 (2002)). Because per se rule was incorrectly applied to reject motion for reconsideration rather than evaluating specific circumstances, and because extraordinary circumstances merited relief under FRCP 60(b)(6), denial of habeas petitioner's motion for reconsideration was reversed and remanded for evaluation of merits.(Phelps v. Alameida, 569 F.3d 1120 (9th Cir. 2009,Cal)). Fundamental purpose of Rule 60(b) is to prevent judgment from becoming vehicle of injustice and strength or weakness of evidence against defendant is important and often decisive factor in judging new evidence supporting motion to vacate.(U.S. v. Walus, 616 F.2d 283 (7th Cir. 1980, Ill)). Civil procedures under Rule 60(b) are available to remedy criminal convictions and their consequences, especially where constitutional deprivations are involved.(Neely v. U.S., 546 F.2d 1059 (3d Cir. 1976, Pa)). Where district court lacks jurisdiction to entertain Plaintiff's habeas petition, district court properly denies Plaintiff's Rule 60(b) motion. (DeLong v. Hennessey, 912 F.2d 1144(9th Cir. 1990,Cal), cert den., 498 US 1001(1990)).

To constitute fraud on court, fraud must be part of unconscionable plan or scheme, or subvert integrity of court itself; such plan cannot be garden variety fraud--it must rise to level of bribing judge, jury tampering, designing scheme intended to deceive court, or involvement of officer of court in perpetuating fraud; fraudulent act must be intentionally false, willfully blind to truth, or in

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reckless disregard for truth. (Bowie v. Maddox, 677 F.Supp.2d 276 (D.C. Cir. 2010, Dist Col.)). To establish fraud on court, it is necessary to show unconscionable plan or scheme which is designed to improperly influence court in its decision. (First Nat'l Bank v. Lustig, 96 F.3d 1554 (5th Cir. 1996, La.)).

The Due Process Clause prohibits government from depriving you of "life, liberty, or property without due process of law." "U.S. Const., V and XIV Amendments. Substantive due process "bars certain arbitrary, wrongful government actions" regardless of the fairness of procedures used to implement. (Zimmermon v. Burch, 494 US 113, 125 (1990); accord, Cnty of Sacramento v. Lewis, 523 US 833, 840 (1998)). Under the California Constitution, "freedom from arbitrary adjudication is a substantive element of one's liberty " (People v. Ramirez, 25 Cal. 3d 260 (1979)), at least where there is a statutory benefit or interest at stake. (Ryan v. California Interscholastic Federation-San Diego Section, 94 Cal. App. 4th 1048, 1071 (2001)). Therefore, Due Process is required whenever government takes "deprivatory action" against an individual, regardless of whether there is liberty or property interest that federal law would recognize. (see, Toussaint v. McCarthy, 801 F.2d 1080, 1096 (9th Cir. 1986) (explaining California law)). If the deprivation of liberty or property is intentional, it is a deprivation for due process purposes, and it is no defense that officials were only negligent in denying you due process for that deprivation. The basic requirement of due process is the right to notice and an opportunity to be heard "at a meaningful time and in a

### REASONS FOR GRANTING THE PETITION

meaningful manner."(Hamdi v. Rumsfeld, 542 US 507, 533 (2004); Logan v. Zimmerman Brush Co., 455 US 422, 437 (1982); see Goss v. Lopez, 419 US 565, 579 (1975)). When conduct on the part of the authorities is so outrageous as to interfere with an accused's due process of law, proceedings against the accused are thereby rendered improper. (Rochin v. Ca., 342 US 165, 172 (1952); People v. McIntire, 23 Cal. 3d 742, 748, fn.1 (1979)). Dismissal is occasionally used by the courts to discourage flagrant and shocking misconduct by overzealous government officers in subsequent cases. (Barber v. Municipal Court, 24 Cal.3d 742, 759-60 (1979); People v. Moore, 57 Cal.App.3d 437, 442-43(1976)). This COURT has held that dismissal of criminal charges is an appropriate sanction when government misconduct results in "demonstratable prejudice, or substantial threat thereof to a defendant's right to counsel."(U.S. v. Morrison, 449 US 365 (1981)). California case law supports dismissal as a remedy for sufficiently outrageous government misconduct. (see, Morrow v. Superior Court, 30 Cal.App. 4th 1252 (1994); Boulas v. Superior Court, 185 Cal.App.3d 422 (1986); People v. Moore, supra.). "Where it appears that the state has engaged in misconduct, the burden falls upon the People to prove, by a preponderance of the evidence, that sanctions are not warranted because the defendant was not prejudiced by the misconduct."(People v. Zapien, 4 Cal. 4th 929, 967 (1993)); accord, Nix v. Williams, 467 US 431, 444 (1984); Murphy v. Waterfront Comm'n, 378 US 52, 79, fn.18 (1964)). Reversal of judgment is designed not so much to punish prosecutors as to protect the fair trial rights of defendants. (People v. Lambert,

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52 Cal.App.3d 905, 911 (1975)).

Violation of the Exclusionary Rule are applicable here. Under the Exclusionary Rule, evidence obtained in violation of the Fourth (Weeks v. U.S., 232 US 383,398(1914),overruled on other grounds by Elkins v. U.S., 364 US 204, 208(1960);see, Mapp v. Ohio, 367 US 643, 654-55(1961), or Fifth Amendment (Bram v. U.S., 168 US 532,548(1897); see, Blackburn v. Ala., 361 US 199,205(1960), may not be introduced at trial to prove a defendant's guilt. The purpose of the Exclusionary Rule is to deter constitutional violations.(U.S. v. Leon, 468 US 897, 906(1984)).When a court improperly admits evidence in violation of the Exclusionary Rule, reversal is required unless the error was harmless beyond a reasonable doubt.(Chapman v. Cal., 386 US 18, 23-24(1967)).

Under the Fourth Amenment, Ingram's rights were violated in several instances.Warrantless arrest procedures were foregone to gain a tactical advantage, where delay cannot be deemed reasonable in light of the totality of circumstances.(see, Gerstein v. Pugh, 420 US 103,113(1975)). Instead of "promptly secur[ing] a judicial determination of probable cause(Gerstein, 420 US at 113-14;Cnty of Riverside v. McLaughlin, 500 US 44,56(1991))(A "brief period" means within 48 hours), Ingram, instead, was transported from alleged crime scene to Community Hospital for purposes of Police compelled investigation that was both intrusive and not incident to that arrest. (see, U.S. v. Liera 585 F.3d 1237,1243(9th Cir. 2009); see also, Cardwell v. Lewis, 417 US 583(1974)). For warrantless search incident

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to arrest to be found reasonable, it must be conducted substantially contemporaneously with arrest. (U.S. v. Garcia, 605 F.2d 349(7th Cir. 1979, Ill)). The evidence and "fruit" of this illegality are DNA-S.A.R.T. examination and findings, and cd-recorded statement made under duress.

Evidence obtained in violation of the Fourth and Fifth Amendment, in the form of cd-recorded statement, came about through period of unnecessary delay between arrest and initial appearance. (see, Corley v. U.S., 129 S.Ct. 1558, 1571(2009); McNabb v. U.S., 318 US 332, 341, 347, (1943)). CD-Recorded statement was the product of psychological ploy used to elicit responses, while Ingram's will was overborne, where trial court failed to examine cd-recorded statement's contents, which would place burden on prosecution to show statement's voluntariness. (see, Chavez v. Martinez, 538 US 760, 770(2003); see also, Mincey v. Ariz., 437 US 385, 399-401(1978)) (confession involuntary because continued police interrogation of hospitalized suspect overwhelmed suspect's free will)). While police had Ingram detained at hospital, for compelled S.A.R.T. examination, police simultaneously interrogated him, where second interrogation (falling on the heels of first), was "question first, warn later" ploy, used once Miranda warning was given and while recording device was concealed. (see, Mo. v. Seibert, 542 US 600, 615(2004)). Second statement was just as unreliable as the first, even though the first statement wasn't furnished, because he was uninformed as to the right to make an informed choice. Further, fact that police concealed first statement is contained at second

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statement, where directly after Miranda warning, police attempt to remind Ingram of the previous conversation that really was interrogation. The use in a criminal prosecution of involuntary confessions constitutes a denial of due process of law under both the federal and state Constitutions and the Due Process Clause of the Fourteenth Amendment, which requires exclusion of coerced admissions if they are sufficiently damaging. (see, Lego v. Twomey, 404 US 477, 483(1972); Ashcraft v. Tennessee, 327 US 274( ); People v. Underwood, 61 Cal.2d 113, 120(1964); People v. Trout, 54 Cal.2d 576, 583(1960); see, Payne v. Arkansas, 356 US 560, 561(1958)). Improper introduction of a confession constitutes reversible error. (People v. Pettingill, 21 Cal.3d 231 (1978)).

The right to counsel was also violated. (Sixth Amendment). The scope and application of the right to counsel, under the totality of circumstances analysis, was not afforded to Ingram. At arraignment, conflict of interest counsel was appointed, where Alternate Public Defender, K.C. Ma, and Ingram, had an apparent, constructive, and actual conflict stemming from K.C. Ma's previous representation and termination. (see, Strickland v. Washington, 466 US at 692(1984)). K.C. Ma actively represented conflicting interest, where court records of his representation were altered to conceal duration and sole representation. Counsel for the defense actively participated in manufactured competency hearing declaring doubt, that Ingram was not present, nor had knowledge of. The above facts and evidence in support, did- in fact, have an adverse effect on counsel's performance. (Yarborough v. Gentry, 540 US 1, 5 (2003)).

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Counsel's performance fell below the objective standard of reasonableness, where Ingram was prejudiced and had to choose between self representation and poor counsel. (see, Patterson v. Ill., 487 Us 292 n.4(1988); see, e.g., James v. Brigano, 470 F.3d 636, 644 (6th Cir.2006)(involuntary waiver when defendant given choice between poor counsel and self-representation)).

Lastly, irregularities in the conduct of the court present a new question relating to jurisdiction over federal questions and subject matter jurisdiction, where "unique circumstances" doctrine applies if a party is "mislead by the words or conduct of the court." (see, e.g. Vlaicu v. INS., 998 F.2d 758,759(9th Cir.1993), quoting, Hernandez Rivera v. INS., 630 F.2d 1352,1354-55(9th Cir.1980)). Here, the irregularity is the Southern Division of the United States Central District Court of California(28 USC §84(c)(3)), operating under the title, guise, and jurisdiction of the Western Division of the Central District Court of California(28 USC §84(c)(2)), where no power exists to do so. The efficacy of the proceeding is in question, where habeas corpus jurisdiction and duty to exercise it, was not fashioned by appropriate modes of procedure, analogous to existing rules or otherwise in conformity with judicial usage. Where the duties require it, this is an inescapable obligation of the courts. (see, e.g. Harris v. Nelson, 394 US 299(1969); 28 USC §1651). Ninth Circuit inquiry into this issue was non-existent, where it denied COA without examination into issue of jurisdiction. District Court has no jurisdiction except that which Congress conferred by law. (West Pub.Co. v. McClogan, 138

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F.2d 320(9th Cir.1943, Cal.)). Power of court was restricted to territorial jurisdiction of court in which application was made. (see, Exparte Fong Yim, 134 F. 938(D.C. N.Y., 1905); Exparte Gouyet, 175 F. 23 (D.C. Mont., 1909)). Although 28 USCS 2241(d) primarily governs jurisdiction, it has implications as to venue between divisions in the same district, and militates in favor of filing the petition in the division where the witnessess are located, rather than that in which the applicant is confined. (Mitchell v. Henderson, 432 F.2d 435 (5th Cir. 1970, La.)). After judgment, want of jurisdiction set up to avoid same had to be shown with great certainty. (Provident Sav. Life Assurance Soc. v. Ford, 114 US 635 (1885)). When lack of lack of jurisdiction of subject matter affirmatively appeared upon record, it was duty of appellate court to notice same. (Royals Ins. Co. v. Stoddard, 201 F. 915 (8th Cir. 1912, Wyo)).

Ingram was not afforded substantive nor procedural due process of law at trial court, where numerous and cumulative federal constitutional errors accrued.

Ingram was denied direct appeal review and the "full and fair opportunity to litigate" Fourth Amendment claims, where claims went ignored by state appellate court on direct appeal, and where claims were limited in trial court's sole evidentiary hearing on the matter. Ingram was unreasonably denied state habeas relief, where examination could have possibly cured error(s) complained of.

Ingram was unreasonably denied federal habeas relief, where denial was perfunctory, and filing error, jurisdictional issues, and

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want of jurisdiction possibly affected adjudication of claims and number of claims presented.

Ingram was unreasonably denied relief from judgment when it was discovered that division other than division that was assigned jurisdiction, adjudicated federal habeas proceedings.

Ingram was unreasonably denied COA to review district court's order denying federal habeas corpus, where denial is reasonably believed to be based on prior denials from lower courts and their possible biasness based on gravity of charges and conviction.

Ingram was unreasonably denied COA to review district court's denial of motion for relief, where viable questions were presented and left unaddressed, as to federal procedure and jurisdictional issue.

Lastly, Ingram was unreasonably denied relief by state appellate court after "new evidence" was discovered showing that trial court exceeded its jurisdiction and denied Ingram right to fair trial, where custody records and medical records obtained through related case CV-11-9428DOC(OP), disproves trial court records stating that Ingram was "present in court" in he wasn't even transported to court for trial court to make any determination on his competency. The manufactured competency hearing declaring doubt on Ingram's competency was possible attempt to conceal pre-trial detainee excessive force/tasering incident that hospitalized Ingram on same date and approximate time as competency hearing, that involved trial court and its officers.

Ingram has suffered gracfully, these hardships and injustices,

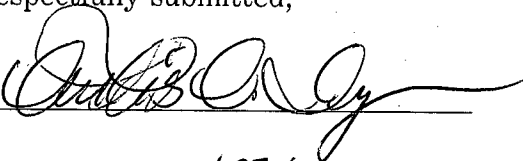
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where denial after denial of review demonstrates prejudice towards the issue(s) presented, because Ingram was convicted of sexually based offenses. A preconceived disposition was already formulated, early on, where, prior to the events of August 24, 2009, that lead to this petition, Ingram was subsequently given a psychosis and summarized narrative on March 28, 2009. Then, Ingram was excessively tasered, taken to Community Hospital, then to jail, only to be taken back to Community Hospital, under manufactured narrative of psychosis, in order to implement cover story of police excessively tasering him simultaneously to the chest and back, right next to a street light transformer that surged. Needless to say, Ingram was hospitalized and sedated, put in an psychiatric ward, before being released, where these additional allegations, just as with the competency hearing, show a collusive mind set that is in direct conflict with relevant decision(s) of this COURT. If these allegations and evidence in support of them go unaddressed, trial court will continue to "wrap" whatever concept around an accused, regardless of whether he or she committed the crime or not. Here, a manifest miscarriage of justice would continue, and Ingram would still be incarcerated in violation of the United States Constitution, which is to say one who is actually innocent, falsely accused and wrongfully convicted. Ingram does not have any predispositions of mental illness, nor the propensity to commit such heinous acts as those he was accused and convicted of.

### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



\_\_\_\_\_

Date: \_\_\_\_\_

3/27/18  
/CI/