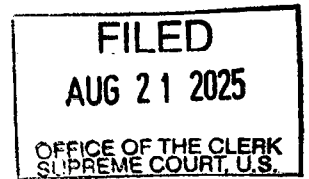


25-5935

ORIGINAL

No. _____



IN THE
SUPREME COURT OF THE UNITED STATES

ANTONIO EUBANKS — PETITIONER
(Your Name)

vs.

SAN BERNARDINO COUNTY RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

ANTONIO MARQUIS EUBANKS #AM8331
(Your Name)

~~1000 S. 1ST ST., P.O. BOX 11111~~
CORCORAN, ~~93217~~ 93212
(Address)

CORCORAN, CA, 93212
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

ANTONIO EUBANK'S WARRANTS RESENTENCING UNDER PENAL CODE SECTION 1170.95, MOTION FOR A FRANKLIN/COOK PROCEEDING UNDER PENAL CODE SECTION 1203.01 SHOULD BE GRANTED, LWOP SHOULD NOT BE EXCLUDED TO YOUTH OFFENDER STATE LAW WHEN ALL MERITS ARE OTHERWISE SET. THIS ALONE VIOLATES EQUAL PROTECTION CORRECT?

DOES A JURY'S SPECIAL CIRCUMSTANCE FINDING MADE BEFORE THIS COURT'S DECISIONS IN PEOPLE V. BANKS (2015) 61 Cal. 4th 788 AND PEOPLE V. CLARK (2016) 63 Cal. 4th 522, BASED ON A LYING-IN-WAIT THEORY, CATEGORICALLY BAR RELIEF? UNDER CODE 1172.6 ~~AT~~ THE PRIMA FACIE STAGE, OR MUST SUCH A FINDING BE EVALUATED IN LIGHT OF THE LEGAL STANDARDS CERTIFIED IN BANKS AND CLARK, CONSISTENT WITH THIS COURT'S HOLDING IN PEOPLE V. STRONG (2022) 13 Cal. 5th 698?

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: SUPERIOR COURT OF SAN BERNARDINO COUNTY, COURT OF APPEAL OF THE STATE OF CALIFORNIA, ATTORNEY GENERAL, WILLIAM LEE- DEPUTY DISTRICT ATTORNEY

RELATED CASES

(FARMERS INS. EXCHANGE V. SUPERIOR COURT (2013) 218 Cal. App. 4th 96, 106, fn. 17.), (PEOPLE V. CASTELLO (1998) 65 Cal. App. 4th 1242, 1246 (CASTELLO.)) (JACKSON V. SUPERIOR COURT (2010) 189 Cal. App. 4th 1051, 1065), (PEOPLE V. NESBITT (2010) 191 Cal. App. 4th 271, 239.), "PEOPLE V. STRONG (2022) 13 Cal. 5th 698, 842, PEOPLE V. SILVA, NO. F083248 (CAL. CT. APP. JAN. 18, 2023)" (PEOPLE V. LOPEZ (2022) 78 Cal. App. 5th 1, 13.) (PEOPLE V. DRAYTON (2020) 47 Cal. App. 5th 965.), (PEOPLE V. FLORES (2022) 76 Cal. App. 5th 974) (PEOPLE V. DAVENPORT (2021) 71 Cal. App. 5th 476; PEOPLE V. TRENCH (2008) 43 Cal. App. 4th 36) (PEOPLE V. HEFNER, NO. G060572, 8-9 (CAL. CT. APP. DEC. 23, 2022), (PEOPLE V. JORDAN (1990) 217 Cal. 3d 640, 645). (PEOPLE V. ARIAS (2021) 66 Cal. App. 5th 987, PEOPLE V. ERVIN 72 Cal. App. 5th 90 (2021)) (PEOPLE V. PACHECO (2022) 76 Cal. App. 5th 118, PEOPLE V. LANGI (2022) 73 Cal. App. 5th 912, ERVIN) (IN RE TAYLOR (2019) 34 Cal. App. 5th 543, 562.)

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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ 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 United States district 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.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A88 to the petition and is

☐ reported at G062976; 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 _____.

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

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

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

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

☒ For cases from **state courts**:

The date on which the highest state court decided my case was March 12, 2025.
A copy of that decision appears at Appendix A&B.

☒ A timely petition for rehearing was thereafter denied on the following date: March 27, 2025, and a copy of the order denying rehearing appears at Appendix A&B.

☐ 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

(Statutory References are to the Penal Code unless otherwise indicated)

Penal Code Section 1172.6

* Due Process Clause of the Fourteenth Amendment *

The issue presented of whether a pre-Banks/Clark special circumstance finding under a lying-in-wait theory categorically bars relief under Section 1172.6 raises concerns about the "fairness and constitutional adequacy of murder convictions obtained under invalid legal standards (People v. Clark (2016) 63 Cal. 4th 522 (Clark); People v. Banks (2015) 61 Cal. 4th 788 (Banks)). In People v. Strong (2022) 13 Cal. 5th 698, 718 (Strong), this court recognized that special circumstance findings made before Banks & Clark do not reliably establish that a defendant acted as a "major participant" with "reckless indifference to human life" and thus do not bar relief as a matter of law.

Appellate courts have departed in how they apply Strong, particularly when a jury has found a lying-in-wait or other intent-based special circumstance. (People v. Superior Court (White) (2025) 107 Cal. App. 5th 1269, review "granted" March 26, 2025, S289395 (White); People v. Arreguin (2023) 89 Cal. App. 5th 58 (Arreguin).)

FOURTEENTH AMENDMENT ISSUES PROVISIONS

STATEMENT OF THE CASE

THIS CASE ARISES FROM A 2011 HOMICIDE IN WHICH APPELLANT AND TWO CO-DEFENDANTS WERE CHARGED WITH MURDER AND ROBBERY OF MATTHEW COOK. CO-DEFENDANT CARMELO ENTERED A NO CONTEST PLEA TO VOLUNTARY MANSLAUGHTER IN AN AGREEMENT SHE WOULD TESTIFY AGAINST THE CO-DEFENDANTS. APPELLANT AND CO-DEFENDANT DOZIER WERE TRIED TOGETHER BEFORE SEPARATE JURIES.

THE IDENTITY (DOZIER) OF THE ACTUAL KILLER WERE DISPUTED, APPELLANT STATED DOZIER KILLED COOK, WHILE DOZIER (LIED) BLAMED APPELLANT. (3TRCT 820-823; 4TRCT 1060, 1075, 1103.) CARMELO TESTIFIED SHE DID NOT KNOW WHO COMMITTED THE KILLING AND THAT APPELLANT NEVER ADMITTED TO ASSAULTING OR KILLING COOK. (2TRCT 444.) BECAUSE THE PROSECUTION COULD NOT CONCLUSIVELY ESTABLISH WHO INFLECTED THE FATAL INJURIES, THE CASE WAS SUBMITTED TO THE JURY UNDER MULTIPLE THEORIES OF FIRST DEGREE MURDER. THE PROSECUTOR MADE CLEAR THE STATE WAS PRIMARILY RELYING ON FELONY MURDER. APPELLANT WAS SENTENCED TO LIFE WITHOUT POSSIBILITY OF PAROLE PLUS TWO YRS. 2 Mths., RETURNED VERDICTS OF GUILTY ON ALL COUNTS AND FOUND ALLEGATIONS TRUE.

REASONS FOR GRANTING THE PETITION

A jury's pre-Banks and Clark finding a defendant "intentionally killed" under a lying-in-wait special circumstance conclusively establishes ineligibility for relief under Penal Code Section 1172.6, or whether, under strong, such a finding must be evaluated in light of changes to the law clarifying the standard for individual culpability in felony murder cases.

Appellant made such a showing, his conviction was obtained under several theories of murder liability, including felony murder and aiding and abetting robbery, and the prosecution emphasized that the case screams felony murder. "(4TRT830.) The jury was permitted to return a verdict based on any of those theories without agreeing on which theory applied.

* Such alternative-theory instructions are precisely the kind of instructional framework that courts must scrutinize after *In Lopez* (2023) 14 Cal. 5th 562, 568. Court of appeals' opinion misapplies court's holding in *Curiel*, supra, 15 Cal. 5th 433 by treating the pre-Banks/Clark special circumstance finding as conclusive evidence that appellant was the actual killer. As to ongoing appeal reply, review is beyond necessary and granting this petition is warranted!

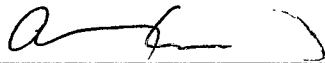
Equal Rights ARE WARRANTED. REVERSAL !

GOD BLESS you!

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'A. L. Smith', written over a horizontal line.

Date: Aug. 18th, 2025