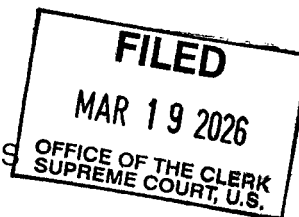


26-5114 ORIGINAL
No. _____

IN THE
SUPREME COURT OF THE UNITED STATES



Frank Peck — PETITIONER
(Your Name)

vs.

Debra Bergas Whelden — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. Court of Appeals for the 9th Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Frank Peck 57106
(Your Name)

ESP Box 1989
(Address)

Ely, NV. 89301
(City, State, Zip Code)

Wk
(Phone Number)

QUESTIONS PRESENTED

2 of 65

STATEMENT

Mr. Peck AVERs that the 9th Cir Ct
errd in Denying Mr. Peck on all Claims 1-5.

However, S. Ct. Rule 10(a)(b)(c) provides:

Certiorari is granted ONLY in
cases involving principles the
settlement of which is of import-
ance to public as distinguished
from parties, and in cases where
* there is real and embarrassing
conflict of opinion and authority
between courts of appeals.

"Mr. Peck feels he is being 'retaliated
against' for his assertions challenging
forensic PCR's Application to criminal
law" as, "Fraud upon the Courts". USCA-1.

Forensic PCR was revealed as synthetic
biology, 1992 NRC-1 Report pg 70. That material
fact was concealed largely, see: Lyons infra, et al,
* until Bensley, infra, "Fraud upon the Courts" That
PCR PRODUCES HUMAN DNA. Then see: TRALA, infra,
where Judge Sleet spontaneously removed the word human
from Bensley with his own words, CLEAR INTENT.
Sleet also, misdirects the reader. See: TRALA, infra,

1. WHETHER, the United States Court of Appeals for the Ninth Circuit ERRED when it summarily DENIED Mr. Peck's (counsel's) Application for a Certificate of Appealability? Hayes v. Brown, 399 F3d 972 (9th Cir 2005), (En banc) (Rule of the Circuit Law). "FALSE EVIDENCE"? ACTUAL, FACTUAL, LEGAL-INNOCENCE, Schlup v. Delo.
2. WHETHER, the United States Court of Appeals for the Ninth Circuit ERRED in re Chim's "FALSE EVIDENCE", by overlooking that "the affirmative defense of procedural default was not raised in respondents ANSWER OR IN THE MOTION TO DISMISS", AND "DUE PROCESS protects defendant's against the knowing use of ANY 'FALSE EVIDENCE' by the State, whether it be by document, testimony, or any other form of admissible evidence", 518 U.S. 152, and NAPUE, 360 U.S. 264?
"Respondents admit to the Facts of FALSE EVIDENCE CLAIM" (DOC-135) p15, LN18.
3. WHETHER, FRAUD, EXTRINSIC FRAUD, FRAUD IN FACT, was committed in United States v. Beasley, 102 F.3d 1440 at 1445 (8th Cir 1996) ("by utilizing the PCR METHOD, ONE CAN produce a substantial number of specific segments of human DNA which can then be typed") Beasley provides judicial notice for the PCR method. See: Transcript of Proceedings, Daubert Hearing Day-1, May 8, 1995 pg1, pg 32 LN 17-18. United States District Court, Judge, David S. Doty, "HAS BACKGROUND IN BIOLOGY". Knew!, PCR DOES NOT PRODUCE HUMAN "DNA" !!! (EX-F). "FRAUD UPON THE COURTS."
See: 1992 NRC-1 Report pg 70, PCR is synthetic.

4. WHETHER, Federal Circuit Courts engaged in deception in Furtherance of the FRAUD in United States v. Bensley, supra. See: Hicks and Trala infra?
5. WHETHER, JUDGE DOTY'S FRAUD implicates Fruit of the poisonous tree doctrine, under Wong Sun v. United States, 371 U.S. 471 (1963)?, (illegal search issues.) U.S. v. Lee, 1 S.Ct. 240 at 261 "No man in this country is so high that he is above the law".?
6. Whether the United States District Court for the District of Nevada is in collusion with the United States Court of Appeals for the Ninth Circuit to Deny relief to Mr. Peck with regard to his False Evidence Claim? Actual, Factual, legal innocence! "AVOIDANCE IS NOW EVASION", EXTRINSIC FRAUD.
7. Whether, Mr. Peck was entitled to a con on each and every one of his Substantial Constitutional Claims, shown by clear and convincing errors of fact and law in the lower courts judgment, as well as, how the lower courts procedural ruling were "WRONG"! "Clear error".
8. Whether - FRAUD, EXTRINSIC FRAUD, FRAUD IN FACT, voids JURISDICTION? Bensley, Hicks, Trala and Nevada Bolin. (114 Nev at 528) Talbot v. Tanson, 3 U.S. 133 (1795); 61 U.S. 108 (1858). FRAUD VITIATES EVERYTHING. Mooney, 294 U.S. 103 (1935). FRAUD UPON THE COURTS, Bensley, et al.

Part - 2. QUESTION PRESENTED CONTINUED

(In regard to QUESTION ONE) [Whether the Circuit Court authorities are False, Misleading and deceptive?]

Facts 1. (1992 NRC-1 Report) DNA Technology in Forensic Science pg 70. "PCR analysis is analysis of 'synthetic DNA' as opposed to the natural sample": IRREFUTABLE FACT.

Facts 2. United States v. Beasley, 102 F.3d 1440 at 1445 (8th Cir Dec 18, 1996) ("By utilizing the PCR method, one can produce a substantial number of specific segments of 'human DNA' which can then be typed." (See EX - E) May 8, 1995 Day ONE, Transcript of Daubert Hearing before U.S. DIST JUDGE DAVID S. DOTY pg 1, pg 32 Ln 17-18 Judge Doty has background in biology. Knew, the above was untrue!

Facts 3. United States v. TRALA, 386 F.3d 536 at 542 (3rd Cir Oct 26, 2004) (See 162 F. Supp. 2d 336 (D. Del. 2001) at 341) (cites: United States v. Gaines, 979 F. Supp at 1435 misdirecting away from 1433 where, Beasley supra appears. And then, sua sponte misquotes Beasley at 1445 and Gaines. At 1432, with his own words at TRALA, 162 F. Supp. 2d at 341, "By using this process, a lab can produce a substantial number of specific, targeted segments of DNA which can then be typed." Compare Beasley at 1445. "OMITS: HUMAN from Beasley," "CHANGES QUOTED CASELAW", USDC Judge Gregory M. Sleet, "deception", in furtherance of Fraud in Beasley supra.

PART - 2. QUESTION PRESENTED CONTINUED

Facts 4. United States v. Hicks, 103 F.3d 837 At 846 (9th Cir Dec 24, 1996) (citing: State v. Lyons, 324 Ore 256, 924 P2d 802 (Or 1996) (At 812 omission via Elipsis FN 22 "In 1992, the National Research Council noted that "the theory of PCR analysis *** is scientifically accepted and has been accepted by a number of Courts". NRC (1992) At 70. Elipsis At FN 22 omits, "even though it is the analysis of synthetic DNA, as opposed to the natural sample".

Beasley, supra, provides "judicial notice" of the PCR method.
"Blatantly dishonest behavior by USDC Judge David S. Doty; cannot be ignored by this honorable Court". Sup Ct Rule 10 (a)(b) and (c). Judge Doty KNEW PCR DOES NOT PRODUCE HUMAN DNA! Others, actively, attempted to conceal material-fact; PCR IS SYNTHETIC! NOT-"DNA".

* This is a question of national importance". This honorable court should exercise its discretion to decide this important Federal Question. FRAUD, EXTRINSIC FRAUD, FRAUD IN FACT,
"Total Deprivation of Jurisdiction". "Fraud on the court".
Clearly, PCR PRODUCT IS NOT-DIRECT-EVIDENCE,
Nor is it, Bodily-Evidence-"DNA", or "DNA" as defined at Law. PCR is synthetic, and, by its nature "cannot belong to anyone", AS PORTRAYED TO JURIES AS, THE DEFENDANTS "DNA", and is "patent eligible". "Structurally dissimilar". *

LIST OF PARTIES

EP ~~+~~ 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:

Frank M. Peck, Warden Deborn Borgas
(formerly Terry Roynl), and the Attorney
General of the State of Nevada

RELATED CASES

TABLE OF AUTHORITIES

8 of 65

CASES

Page

1. Bolin v. State, 114 Nev 503 (1998) 4
2. Gray v. Netherland, 518 US 152 (1996) Hw 5 3
3. Hayes v. Brown, 399 F3d 972 (9th Cir 2005) 3
4. Mooney v. Holohan, 294 US 103 (1935)
5. Napue v. Illinois, 360 US 264 (1959) 3
6. Schlup v. Delo, 513 US 298 (1995) 14, 15
7. State v. Lyons, 924 P2d 802 (ORE 1996) 6
8. Talbot v. Tanson, 3 US 133 (1795) 4,
- * 9. United States v. Bensley, 102 F.3d 1440 (8th Cir 1996) 2, 3, 4, 5, 6
10. United States v. Gaines, 979 F Supp 1429 (USDC SD FL 1997) 4,
11. United States v. Hicks, 103 F3d 837 (9th Cir 1996) 6,
12. United States v. Lee, 1 S. Ct 240 (1882) 4,
13. United States v. TRALA, 386 F3d 536 (3rd Cir 2004) 5,
14. Wong Sun v. United States, 371 US 471 (1963) 4,

STATUTES AND RULES

- Sup Ct Rule 10(a)(b)(c). 2,
- 28 USC § 2253(c)(3) 15, 21, 18

OTHER

- * Certiorari is granted only in cases involving principles the settlement of which is of importance to public as distinguished from parties, and in cases where there is a "real and EMBARRASSING CONFLICT OF OPINION and authority between courts of appeals".
- ULRB v. Pittsburg SS Co, 340 US 498 (1951) Bensley supra.

TABLE OF CONTENTS

9 of 65

OPINIONS BELOW	10
JURISDICTION	11
CONST AND STATUTORY PROVISIONS INVOLVED	12
STATEMENT OF THE CASE	13, 20
REASONS FOR GRANTING THE WRIT	14-62
CONCLUSION	64

INDEX TO APPENDICES

- A. ORDER Jan 20, 2026 DENYING RECONSIDERATION.
- B. ORDER Dec 19, 2025 DENYING APPLICATION FOR A CERTIFICATE OF APPEALABILITY.
- C. ORDER DENYING THIRD AMENDED PETITION FOR A WRIT OF HABEAS CORPUS June 3, 2025.
- D. ORDER MAY 09, 2017 ORDER OF AFFIRMANCE No 70490.
- E. Transcript May 8, 1995 DAUBERT HEARING UNITED STATES v. Bensley, David S. Doty has background in biology, KNEW PCR DOES NOT PRODUCE HUMAN DNA.
- F. ADMISSION (DOC-135) pg 15, LN 17-18 PCR IS INVESTIGATIVE METHOD... NOT DIRECT EVIDENCE AS WAS portrayed to Mr Pecks jury. MISLEADING, MISCONDUCT, Extrinsic Fraud, Fraud on the Courts.
"Literally EVERYONE HAS BEEN DECEIVED"

10 of 65

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 B to the petition and is

☒ reported at 2025 US App LEXIS 34302; 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 C to the petition and is

☒ reported at 2025 US DIST LEXIS 104914; 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 _____ 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 Dec 19, 2025.

☐ 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: Jan 20 2026, and a copy of the order denying rehearing appears at Appendix A.

☒ 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

First Amendment right to be free from retaliation, for filing Mr. Peck's challenge to Forensic PCR's application to criminal law. By ALL COURTS SO FAR.

USCA 5 and 14 right to Due Process
Right to reasonable time to prepare for trial,
Right to Discovery to prepare a defense,
or a complete defense.

Right to not be convicted upon the
knowing use of False Evidence, FRAUD,
FRAUD UPON THE COURTS, Brasley.
A LIE IS A LIE NO MATTER ITS SUBJECT
WAPUE.

Mr. Peck's involvement and the evidence was,
IN FACT, FABRICATED!

STATEMENT OF THE CASE

Mr. Peck's Federal Public defender was appointed to and including CERTIORARI.

Mr. Peck contends that the only reason Mr. Peck's application for a certificate of appealability was denied, was due to his assertions challenging Forensic PCR's application to criminal law, being FRAUD UPON THE COURTS Bensley.

Please see: Application for Certificate of Appealability for further statement of the case and procedural background, AND AS REASONS FOR GRANTING - pg. 19-62.

See: Also, pg 20 for further STATEMENT OF THE CASE.

EX-G

140865

REASONS FOR GRANTING THE PETITION

PLEASE SEE:

Application for a Certificate
of Appealability

Setting forth specific errors
of Law and Fact Rule 60(b)

Clearly showing substantial
CONSTITUTIONAL CLAIMS AND
SPECIFICALLY, WHY THE COURTS PROCEDURAL
RULING[S] WERE WRONG, EX-G

Mr. Peck should have received a
COA ON EACH OF HIS CLAIMS

MR. PECK IS INNOCENT

Schlupp v. Delo
513 U.S. 298 (1995)

REASONS FOR GRANTING THE PETITION

15 of 65

1. Mr. Peck IS INNOCENT. Schlup v. Delo 513 US 298 (1995).
2. Mr. Peck was denied Discovery to prepair.
3. Mr. Peck was denied Time to prepair.
4. Mr. Peck was denied the above after a Faretta Canvas.
5. Mr. Peck was denied a defense, much less a Complete Defense.
6. The Clerk of the Court failed to transmitt the Transcript of the May 5 2009 IN-CHAMBERS CONFERENCE SHOWING Mr Peck IN-FACT requested A CONTINUANCE, "while proceeding PRO SE".
7. The Nevada Supreme Court Ignored the May 5, 2009 Transcript several times and EVEN after confirming receiving it! SEE DOC-115-15 filed 08/16/22 filed Jan 31, 2017. Then, SEE: DOC-115-20 ORDER OF AFFIRMANCE filed May 09, 2017 pg7 Stating Mr Peck never moved for a continuance when proceeding Pro se. "Gross Abuse of discretion".

Clearly, A substantial Constitutional Rights Violation USCA 5, 14 28 USC § 2253 (c)(3) Contrary to the 9th Cir summary denial of Mr Pecks Application for a Certificate of Appealability.

Please see the next 3 pages for what Mr. Pecks Defense at Trial would have been, (IN PART) had he been Afforded Time to prepair A Defense, This evidence would not survive the crucible of cross examination.

REASONS FOR GRANTING

16865

1. Mr. Peck is actually, factually, legally innocent.

2. Had Mr. Peck been given Time to prepare a Defense he could have shown the jury that, the ONLY EVIDENCE, was unreliable and inadmissible. FRE 401, 702, 703.

A. PCR-STR method results in "coincidental matches" in every database audited against itself. United States v Davis, 602 F. Supp 2d 658 at 681-82 (USDC DM 2009).

B. PCR-STR-LCN has gone completely off the rails. See United States v. Johnson 2025 US Dist Lexis 59429 at 27-28 "Pitfalls" to the PCR process. "Allele dropout", "Artifacts", Alleles appearing in the data that are not "real" (because they are not shared by the true donor(s) to a DNA sample).

C. Paid experts with vested financial interests in this Tech will testify that the increase in validation of alleles from the core 13 to 21+ is "Increased Technology", when in reality, it is due to the discovery of Null Alleles, and a low level of validation studies, pressures of production, and, a fatally flawed method of human identification. The only reliable means of genetic identification is sequencing the entire molecule.

D. Once the Discovery of Null Alleles occurred, Degenerate primers were implemented to cure the mismatch at primer binding sites, however, these degenerate primers just further MASK exculpatory sequence variants that may exist in the STR length measurement. STR method only measures length without regard to any sequence variant that may exist in the length motif IS A built in Brady-violation.

E. (PCR PRODUCT) IS SYNTHETIC AND NOT "DNA"!
 having EXONS removed is Patent-eligible Myriad,
 106 USPQ2 AT 1974. Upon the very first cycle of the
thermal cycler the "DNA" sample is "obliterated by heat,"
 201° F then, remanufactured with synthetics, factually,
 breaking the Chain of Custody and arguably and
 probable cause from remanufactured synthetic materials,
 from a MATERIES Kit, Profiler, Profiler plus and Identifier
Please, see: PROMEGA v. APPLIED BIOSYSTEMS, 2011 U.S.
DIST LEXIS 158561 Patent Case. Promega filed its
Complaint and licensing agreement "UNDER SEAL" however,
District Judge, Barbara Crabb, at 31 Disclosed: "it
IS CLEAR FROM THE PLAIN LANGUAGE OF THE LICENSE
AND THE UNDISPUTED FACTS THAT THE KITS IN DISPUTE
DO NOT PERFORM AN ANALYSIS "FOR THE IDENTIFICATION
OF INDIVIDUALS". At 41 SEE: Kits COfiler, Profiler
Identifier, Profiler plus and Yfiler! Attempt at
closed source forensics. "These kits were used against
Mr. Peck".

* MR PECK IS INNOCENT. THE SO CALLED EVIDENCE WAS LITTERALLY FABRICATED.

18 of 65

- F. Schlup v. Delo, 513 U.S. 298 (1995) (H.N.1. Under the Sawyer standard, the petitioner must show by clear and convincing evidence that, but for A constitutional error, no reasonable juror would have found the petitioner guilty. (False-Evidence).
- G. The illegal act of judge David S. Doty in United States v. Bensley, supra, creates evidence via the PCR method is "Fruit of the Poisonous Tree", Wong Sun v. United States, 371 U.S. 471 (1963) Mr. Peck could have evoked the exclusionary rule prior to trial. Again! PCR product is NOT "DNA" and NOT "Direct Evidence"! This Fact is admitted to by Royal that PCR is investigative method only. This means Mr Peck's jury was misled, deceived. See: admission DOC-135 pg 15 Ln 17-18.
- H. It is inconceivable that Mr Peck was DENIED A COA on all of his claims despite meeting the standards set forth in Slack v McDaniel, 529 U.S. 473 (2000) 28 USC⁵⁵ 2253(c)(2) Gonzales v Thaler, 565 U.S. 134 (2012); Miller-El v. Cockrell, 537 U.S. 322 327 (2003); Lumbright v. Stewart, 220 F.3d 1022 (9th Cir 2000) HN 16 When the district Court has dismissed A claim on a procedural ground without providing petitioner an opportunity to develop factual legal basis, or evidentiary hearing the COURT WILL TAKE A QUICK LOOK at the Face of the Petition to determine whether it finally alleged a CONST RIGHT.

64 of 65

Mr. Peck apologises for his handwriting
being semi disabled a Needle guide in
his writing hand.

Mr. Peck thanks the Clerks and Justices
for thier Time and consideration.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Frank Peck

Date: 03/16/2026