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IN THE
SUPREME COURT OF THE UNITED STATES

Jason Yu
Petitioner,
v.
Christopher Pierce, Warden,
Respondent.

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

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QUESTIONS PRESENTED

1. Whether a trial court violates the Sixth and Fourteenth Amendments by denying a reasonable continuance that is necessary to permit defense counsel to investigate and present material exculpatory evidence.
2. Whether the Sixth Amendment right to counsel is violated when a defendant is forced to proceed to trial after retained counsel effectively withdraws from meaningful representation and substitutes unprepared counsel without the defendant's informed consent.
3. Whether the Due Process Clause places constitutional limits on the admission of highly prejudicial uncharged sexual misconduct evidence when its principal effect is to encourage conviction based on propensity rather than proof of the charged offenses.
4. Whether the Fourteenth Amendment's Due Process Clause permits a criminal conviction to stand where the prosecution's case rests primarily on materially inconsistent testimony that is unsupported by objective evidence and is insufficient to satisfy the constitutional requirement of proof beyond a reasonable doubt.
5. Whether counsel renders constitutionally ineffective assistance by failing to investigate available exculpatory evidence, present viable defenses, and consult with the defendant regarding fundamental decisions concerning the defense.
6. Whether cumulative constitutional errors, together with substantial evidence of actual innocence, require federal courts to provide relief from a criminal conviction consistent with the Sixth and Fourteenth Amendments.

PARTIES TO THE PROCEEDINGS

Jason Chungchien Yu, Petitioner

Christopher Pierce, Warden, Ironwood State Prison

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IN THE
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Jason Yu,
Petitioner,
v.
Christopher Pierce, Warden,
Respondent.

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

Petitioner, Jason Yu, petitions for a Writ of Certiorari to review the order of United States Court of Appeals for the Ninth Circuit denying Petitioner's request for a certificate of appealability on June 2, 2026.

Opinion Below

The Ninth Circuit's order denying a certificate of appealability was entered on June 2, 2026, and is reproduced in the Appendix. The district court's order adopting the Report and Recommendation, denying habeas relief, and dismissing the action with prejudice was entered on November 17, 2025, and is reproduced in the Appendix. The Magistrate Judge's Report and Recommendation recommending denial of relief was entered on September 24, 2025, and is reproduced in the Appendix.

Jurisdictional Statement

This Court has jurisdiction to review the order of the Court of Appeals pursuant to 28 U.S.C § 1254(1). The United States Court of Appeals for the Ninth

Circuit entered its order denying Petitioner's request for a certificate of appealability on June 2, 2026.

Constitutional and Statutory Provisions Involved

The Sixth Amendment to the United States Constitution provides that:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

The Fifth Amendment to the United States Constitution provides that:

> No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

The Fourteenth Amendment to the United States Constitution provides that:

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

28 U.S.C. § 2254(d) provides in relevant part:

> "An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication ... resulted in a decision that

was contrary to, or involved an unreasonable application of, clearly established Federal law ... or resulted in a decision that was based on an unreasonable determination of the facts."

STATEMENT OF THE CASE

Petitioner was convicted of sodomy by force (Pen. Code, § 286, subd. (c)(2)(A) [count 1]), forcible oral copulation (former § 288a, subd. (c)(2)(A) [count 2]), assault with intent to commit rape, sodomy, and oral copulation (§ 220, subd. (a)(1) [count 3]), and false imprisonment by violence (§ 236 [count 4]) of Mariana V.; kidnapping to commit rape of Airam H. (§ 209, subd. (b)(1) [count 5]); sodomy by force (§ 286, subd. (c)(2)(A) [count 6]), assault with intent to commit rape, sodomy, and oral copulation (§ 220, subd. (a)(1) [count 7]), false imprisonment by violence (§ 236 [count 8]), and criminal threats (§ 422, subd. (a) [count 9]) against Eva E.; and kidnapping to commit sodomy (§ 209, subd. (b)(1) [count 10]), sodomy by force (§ 286, subd. (c)(2)(A) [count 11]), and forcible rape (§ 261, subd. (a)(2) [count 12]) of Maritza M.

With respect to counts 1, 6, 11, and 12, the jury found true special allegations under California Penal Code section 667.61, subdivisions (b) and (e)(4). As to counts 11 and 12, the jury also found true kidnapping-related allegations under section 667.61, subdivisions (b), (e)(1), (a), and (d)(2). The trial court sentenced Petitioner to eight years determinate, plus consecutive indeterminate terms of life and 80 years to life.

Petitioner appealed, and on January 7, 2021, the California Court of Appeal, Second District, Division Five, affirmed the judgment. The California Supreme Court denied review on March 30, 2021.

On June 27, 2022, Petitioner filed a federal habeas petition under 28 U.S.C. § 2254 in the Central District of California and sought a Kelly stay to exhaust additional claims. The stay was granted on July 21, 2022, and Petitioner filed a First Amended Petition omitting unexhausted claims.

Petitioner pursued state habeas relief. The Los Angeles County Superior Court denied relief on August 17, 2023. The California Court of Appeal denied relief on November 3, 2023, and the California Supreme Court denied relief on June 12, 2024. After exhaustion, the district court lifted the stay on June 26, 2024.

Petitioner filed a Second Amended Petition asserting violations of the Fifth, Sixth, and Fourteenth Amendments, including ineffective assistance of counsel under *Strickland v. Washington* based on counsel's failure to provide constitutionally adequate representation.

The Magistrate Judge recommended denial of relief. After Petitioner filed objections, the district court adopted the Report and Recommendation, denied the petition, and dismissed the action with prejudice on November 17, 2025.

Petitioner sought a certificate of appealability from the Ninth Circuit, which denied relief on June 2, 2026, concluding that Petitioner had not shown that reasonable jurists could debate the constitutional claims or the correctness of the district court's ruling. This petition follows.

For the purposes of this petition, Petitioner adopts the statements of facts contained within his Federal Writ of Habeas Corpus, which are replicated below with a minimal modification:

Airam H.

Airam H. testified that on or about February 26, 2012, Petitioner offered her a ride to work (2RT337, 2RT339). During the drive, Petitioner stopped at a friend's house, touched her breast, and asked for a lap dance (2RT340-344). He then drove to a motel, placed money in her hand, and rented a room after she asked him to stop the car (2RT347, 2RT350-352). She testified that she did not want to be there, that Petitioner took her phone into the room and attempted to coax her inside, but she walked away (2RT352-355). She denied agreeing to have sex for money and reported the incident to police the following day, who later recovered her phone from the motel (2RT355, 2RT357-359). Airam admitted she falsely told police Petitioner grabbed her (2RT359-360), acknowledged she made no calls despite having her phone (2RT362-363), admitted she fabricated portions of her statement because police had not believed her in the past (2RT364-366), testified that she kissed Petitioner hoping he would let her leave (2RT376), and admitted she kept the money despite denying she agreed to a lap dance (2RT377-379).

Mariana V.

Mariana V. testified that she was a prostitute but claimed that she was only looking for food on the night in question (2RT381-382). Petitioner pulled up in a BMW. He asked her if she wanted to go somewhere to "party" (2RT383). She got into the car, and they were friendly. She tried to get him to take her to get food. He took her to a motel instead (2RT384-387). When they got there, she claims that Petitioner pushed her onto the bed and tried to force her to have anal sex against her will while he also did drugs (2RT388-393). She tried to escape but he put a table in front of the door (2RT393). He tried to suffocate her three different times while she was trying to scream for help. She claims that he anally raped her (2RT394-398). The police came early the next morning. She was taken to the hospital to have a rape kit conducted (2RT398-399). She told Petitioner "no" multiple times (2RT399). She managed to get away from him by locking herself in the bathroom (that is where the police found her when they arrived) (2RT399-401). Mariana V. admitted that she took $50.00 from Petitioner. She has numerous convictions for prostitution (2RT402). She has been a heroin addict for the past twenty years (2RT403). She testified at the preliminary hearing that she "helped him" take her skirt off so it would not tear. She asked him to use Vaseline and "just wanted him to get it over with." He "paid" for her "services" by

giving her money (2RT403-408). Mariana V. stated that she had an agreement with Petitioner, but later said there was no agreement (2RT410).

Eva E.

Eva E. met Petitioner through a friend and had previously known him. (2RT412-414.) On March 31, 2016, she contacted Petitioner for a ride because she had nowhere to stay. (2RT414-415.) Petitioner picked her up, said he would get her a room, and after his car broke down, they walked to the King's Lodge and obtained a room. (2RT415-417.) She testified that Petitioner offered her money for sex, which she declined. (2RT418-419.) He took out his penis and she tried to leave. He pulled her back and tried to choke her (2RT419-420). She had pepper spray in her purse. She pepper-sprayed his eyes and penis. She claims he raped her (2RT420-422). He said he was going to kill her (2RT422). She told him to go put water on his eyes/penis to alleviate the burning from the pepper spray. She knew this would make them hurt more and would incapacitate him enough so that she could call 911 (2RT423-424). She told him "no" and to stop a lot of times (2RT424). She smoked crystal meth with him when they first got to the hotel. (2RT425). Eva E. called 911 and ran to a nearby church. (2RT425.) The 911 recording and photographs of pepper spray, money, other items, and injuries were admitted. (2RT426-440.) She struck Petitioner with a phone, stating she feared for her life, and later received a medical examination. (2RT440-443.) She denied agreeing to sex for money. (2RT441-443.)

Eva had known Petitioner for about a week and had previously texted him. (2RT443-446.) She requested a ride and agreed to go to a hotel room and use drugs with him. (2RT446.) After his car broke down, they walked to the hotel and smoked methamphetamine. (2RT447.) She later changed her testimony regarding whether she went alone to a 7-Eleven. (2RT447-449.) She had her phone with her, pepper-sprayed Petitioner, and claimed he continued the assault until he was unable to continue. (2RT449-451.) Eva testified she was in recovery and did not know the other alleged victims. (2RT612-613.)

Jeff Girgle

Detective Jeff Girgle of the El Monte Police Department testified that he interviewed Petitioner on February 28, 2012, advised him of his *Miranda* rights, and Petitioner agreed to speak (2RT614-617). Petitioner stated he did not intend to have sexual intercourse when he picked Airam up, that they obtained drugs and went to a motel known for drug use and prostitution, and that he had previously picked up prostitutes in that area (2RT617-620). Girgle testified that Petitioner said Airam accepted $120, that he gave her money to compensate her for missing work, that she accompanied him

willingly, and that he was upset when she did not have sex with him (2RT621-626).

Maritza M.

Maritza M. testified that on or about January 29, 2017, she was walking from the park when a car approached her and offered her money (2RT628-633). She is not a prostitute, nor has she ever been a prostitute (2RT632). The car followed her for about 20 to 30 minutes, and then a man grabbed her and took her into the car. She identified Petitioner as the man in the car (2RT633-636). She tried to get out and begged "please" (2RT636-637). He drove a little and parked in a dark, abandoned place. She claims he threw her phone and raped her anally and vaginally. He left her there and she walked home (2RT637-649). She reported the incident to police with the help of her son, and she was taken to the hospital (2RT649-653). In court, she was shown a photograph of a sketch drawn based on her details and stated "that's the man" (2RT653). She does not know the other witnesses (2RT654).
Maritza M. had her cell phone while he was following her. She did not make any calls for help (2RT657-658). She does not recall or remember stating many of the details the attorney mentioned from her initial report (2RT658-669). She never went to a hotel with Petitioner (2RT670). She does not remember going to the police station (2RT1671). A detective came to speak to her at her home (2RT671).

Laura H.

Laura H. identified Petitioner and stated that he tried to rape her (2RT674). A few years ago, while she was waiting for the bus, Petitioner approached her and asked her if she wanted to "party". She agreed (2RT674-676). They went to a motel, did drugs, and he took off his clothes and tried to rape her. She escaped by kicking him. She took the $20.00 that was on the nightstand and ran (2RT676-679). She is not a prostitute (2RT679). Laura H. does not know any of the other witnesses (2RT682-683).

Gerardo Cueva

Gerardo Cueva, an El Monte Police Department officer, responded to allegations against Petitioner on February 28, 2012. He located a cell phone belonging to an alleged victim in Petitioner's room. Petitioner voluntarily provided the phone and did not attempt to conceal possession of it (2RT684-688).

Vincent Vasquez

Vincent Vasquez, a Monterey Park police officer, responded to Eva E.'s call reporting that Petitioner attacked her (2RT690-692). Vasquez contacted Petitioner at the motel and observed injuries. Petitioner stated Eva E. requested a ride and money for a room, and he did not believe she was a prostitute (2RT692-699). Vasquez observed significant pepper spray in the room and testified neither Eva E. nor Petitioner appeared to be under the influence of drugs (2RT699-704).

Victor Benavidez

Victor Benavidez is a patrol officer for the L.A. County Sheriff's Office. He interviewed Maritza M. and brought her to get an examination. He subsequently collected evidence from the rape kit (2RT706-709). He described how he processed the evidence from the rape kit (2RT709-710). He explained how all of the evidence is individually sealed and maintained to preserve its integrity (2RT710-712).

Carolyn Clark

Carolyn Clark, a registered sexual assault nurse, conducted a SART exam on Mariana V. (3RT902-907). Clark testified Mariana appeared disheveled and described the reported assault and related injuries (3RT907-918). She observed oral abrasions but no anal injuries or outward signs of strangulation (3RT920-922). Clark testified the injuries could have resulted from consensual sex and observed "traditional" ligature marks/bruises (3RT922-926).

Everardo Romo

Everardo Romo is a police officer with the Monterey Police Department. Romo took Eva E.'s report and transported her to the hospital for a SART exam. He collected the evidence (3RT927-929). He explained the procedure for gathering/processing evidence to maintain its integrity (3RT929-930). Romo did not recall whether he collected any evidence from Eva E. directly (3RT930).

Amber Sage

Amber Sage is a criminalist. She processed the evidence from Mariana V.'s rape kit and the DNA reference sample from Petitioner. She explained (in court) the procedures she employs to compare/analyze DNA (3RT932-937). She concluded that Petitioner was the major DNA contributor of the samples provided (3RT937-942). She stated that if a condom is used, DNA is usually not found (3RT942-943). Ms. Sage verified a report she wrote for the DNA

comparison for this case (3RT945-947). She explained how feces and urine can be used as a source of DNA in some cases (3RT947-948).

Luis Olmos

Luis Olmos is a criminalist who works for a crime lab that processed the DNA comparison of swabs taken from a condom with that of Petitioner's DNA (3RT949-953). He stated, based on his analysis, that he could scientifically conclude that Eva E. and Petitioner were contributors (3RT953-956). Olmos stated that there was no anal sample taken (3RT956-960).

Denise Ferrari

Denise Ferrari, a police officer, processed the crime scene involving Eva E. and Petitioner's vehicle (3RT1202-1211). She identified photographs of items recovered from the vehicle and described the evidence collection and preservation procedures (3RT1211-1216).

Andrew Morse

Andrew Morse, a Los Angeles County Sheriff's deputy, responded to Mariana V.'s call for help (3RT1218-1219). Officers found her locked in the restroom, obtained her statement, transported her to the hospital, and identified Petitioner as the person who rented the room (3RT1219-1224).

Cassandre Walsh

Cassandre Walsh, a registered nurse, conducted a SART exam on Maritza M. (3RT1225-1227). She described the evidence collection process, Maritza M.'s statements, DNA collection, observed injuries, and completed documentation (3RT1227-1239). She admitted that the anal injuries could be sustained through consensual sex (3RT1238-1240). Walsh followed procedure in the packaging and labeling of the evidence collected (3RT1240-1241).

Marcellina Johnson

Marcellina Johnson, a forensic nurse examiner, conducted a SART exam on Eva E. (3RT1242-1244). She documented Eva E.'s reported assault, observed bruises, abrasions, bite marks, and anal injuries, and collected evidence through photographs and swabs (3RT1245-1248). Johnson testified SART exams are typically performed at law enforcement's request (3RT1249-1250). She was not told about any pepper spray being near or in the victim's anus (3RT1250-1251). Her report indicated that there was no vaginal penetration, only anal (3RT1251-1252). She explained how she avoided cross

contamination when gathering swabs from Eva E.'s mouth and other areas (3RT1252-1253). Eva reported having consensual vaginal sex with someone else earlier that day (3RT1253). There was no pepper spray found on or near Eva E.'s anus (3RT1254). Ms. Johnson stated that her report indicated that Eva reportedly used toilet paper to wipe herself off prior to the collection of evidence (3RT1255).

Liliana Hara

Liliana Hara is a detective with the L.A. Sheriff's Department. She investigated the alleged rape of Maritza M. (3RT1256-1257). She corroborated what was heard on the recording of Maritza M.'s 911 call (3RT1257-1261). She contacted Maritza M. and noticed injuries. She used cell phone towers to triangulate the location of Maritza M.'s phone (neither location that Maritza M. indicated turned out to be the place where she was raped) (3RT1261-1265). She spoke to Maritza M. a third time and was given a description of the man who attacked her, upon which a sketch was drawn (3RT1265-1267). She obtained search warrants and determined that the BMW belonged to Petitioner (3RT1267-1268). She interviewed Petitioner after another detective already did. A recording of the other interview was played in court (3RT1273-1283). Her interview with Petitioner was played. She explained that she took the information obtained from Petitioner's cell phone company, compared the locations to the alleged victim's cell locations, and saw that they matched (3RT1283; 3RT1298-1302).

Hara spoke with Maritza M. several times during the investigation (3RT1303). She showed Maritza M. a six-pack of pictures, but Maritza M. did not identify Petitioner (3RT1304-1305). She went with Maritza M. to the county jail where Petitioner was being held. She conducted a line-up and Maritza M. was unable to identify Petitioner (3RT1305-1307).

Mariann Shea

Mariann Shea, a Senior Criminalist with the L.A. County Sheriff's Department, analyzed DNA samples from Maritza M. and Petitioner (3RT1287-1288). She testified that the samples contained DNA from both individuals (3RT1288-1290). The DNA profile was consistent with Petitioner, with a one-in-six-million chance it belonged to a relative instead (3RT1290). However, the profile was not eligible for CODIS entry under laboratory standards (3RT1290-1291). Shea testified that Petitioner was excluded as a major contributor from tested underwear and bra samples, and the minor contributor could not be determined (3RT1293-1294). The DNA attributed to Petitioner was skin-cell DNA, not sperm (3RT1294). Other stains tested were inconclusive due to insufficient data or "complexity" (3RT1294-1297). She

also explained that DNA on car surfaces can be lost because those surfaces are easily cleaned (3RT1297-1298).

Jonathan Bailey

Jonathan Bailey is a deputy sheriff. He interviewed Petitioner (3RT1509). He showed Petitioner pictures of the alleged victims: Airam H., Laura H., Eva E., and Mariana V. He asked Petitioner whether he recognized anyone. Petitioner responded "no" (3RT1509-1513). Bailey interviewed Eva E. She told him that she had previously worked as a prostitute (3RT1513-1514). Eva E. told him that she had not been a prostitute for a while (3RT1514).

REASONS FOR THE GRANTING OF THE WRIT

This case presents substantial questions concerning the scope of a criminal defendant's constitutional protections under the Fifth, Sixth, and Fourteenth Amendments. Petitioner was convicted after a trial in which the proceedings were fundamentally compromised by the denial of meaningful representation, the denial of a reasonable opportunity to obtain counsel of choice, the admission of highly prejudicial uncharged misconduct evidence, and the failure to ensure that the State proved every element of the charged offenses beyond a reasonable doubt.

The district court denied habeas relief and the Ninth Circuit denied a certificate of appealability, concluding only that Petitioner failed to demonstrate that reasonable jurists could debate the denial of his constitutional claims. That conclusion warrants review because Petitioner's claims involve recurring constitutional questions concerning the protection of fundamental trial rights and the proper application of Supreme Court precedent governing criminal proceedings.

This case presents an extraordinary circumstance where the cumulative effect of constitutional errors deprived Petitioner of a fundamentally fair trial and

resulted in multiple life sentences despite substantial evidence supporting Petitioner's defense that the alleged encounters were consensual, and that the prosecution's evidence was unreliable.

I. THE COURT SHOULD GRANT REVIEW BECAUSE THIS CASE PRESENTS AN IMPORTANT QUESTION REGARDING THE SIXTH AND FOURTEENTH AMENDMENTS' PROTECTION OF A DEFENDANT'S RIGHT TO A MEANINGFUL OPPORTUNITY TO PREPARE A DEFENSE WHERE A TRIAL COURT DENIES A REASONABLE CONTINUANCE NECESSARY FOR COUNSEL TO INVESTIGATE AND PRESENT EXCULPATORY EVIDENCE.

The Court should grant review to clarify the constitutional limits on a trial court's discretion to deny a continuance where the denial prevents a defendant from meaningfully preparing his defense. Although courts possess authority to manage their calendars, that authority cannot override the Sixth and Fourteenth Amendments' guarantee of a fair opportunity to investigate, consult with counsel, and present available evidence.

Petitioner did not seek delay for tactical advantage. He sought additional time because counsel had failed to adequately prepare, review discovery, investigate evidence, or meaningfully consult with him before trial. The trial court denied the request without inquiry, relying solely on counsel's assertion that he was prepared despite Petitioner's contrary representations.

The Sixth Amendment is violated when a court insists on proceeding despite a "justifiable request for delay" necessary to ensure a fair trial. *Morris v. Slappy*, 461 U.S. 1, 11-12 (1983); *Ungar v. Sarafite*, 376 U.S. 575, 589 (1964). Here, the

denial of a continuance prevented Petitioner from assisting in his own defense and deprived him of the opportunity to investigate and present critical exculpatory evidence. Prior to jury selection, Petitioner informed the trial court that counsel had only recently reviewed the case with him and had not adequately prepared. Petitioner specifically requested additional time, stating that counsel did not "fully know" his case. The court nevertheless denied the request without conducting any inquiry into counsel's preparation, the status of discovery review, or the prejudice caused by proceeding immediately to trial.

The lower courts' resolution of this claim permits trial courts to prioritize expediency over a defendant's constitutional right to prepare a defense. This Court's review is warranted because the Sixth and Fourteenth Amendments do not permit a conviction to stand where a defendant is forced to proceed to trial without a meaningful opportunity to assist counsel, investigate evidence, and present a defense.

II. THE COURT SHOULD GRANT REVIEW BECAUSE THIS CASE PRESENTS AN IMPORTANT QUESTION REGARDING THE SIXTH AMENDMENT RIGHT TO COUNSEL OF CHOICE WHERE RETAINED COUNSEL FAILS TO PROVIDE THE REPRESENTATION PROMISED, DELEGATES THE DEFENSE TO UNPREPARED COUNSEL, AND THE TRIAL COURT FORCES THE DEFENDANT TO PROCEED WITHOUT MEANINGFUL REPRESENTATION.

The Sixth Amendment guarantees more than the mere presence of counsel, it protects a defendant's right to meaningful assistance from counsel of his choice. This case presents an important question regarding whether that right is violated

when a defendant retains a specific attorney, but that attorney delegates the defense to another lawyer who has not prepared for trial and whom the defendant did not select.

The Sixth Amendment provides that "[i]n all criminal prosecutions, the accused shall enjoy the right ... to have the Assistance of Counsel for his defence." U.S. Const. amend. VI. This Court has long recognized that the right to counsel includes the right to retain preferred counsel. *Powell v. Alabama*, 287 U.S. 45, 53 (1932). Although the right is subject to reasonable limitations, including conflicts of interest and legitimate court administration concerns, it carries a "presumption in favor of counsel of choice." *Wheat v. United States*, 486 U.S. 153, 160 (1988). A court's "unreasoning and arbitrary insistence upon expeditiousness in the face of a justifiable request for delay" violates the Sixth Amendment. *Morris v. Slappy*, 461 U.S. 1, 11-12 (1983).

Here, Petitioner retained Mark Bledstein as counsel, but Bledstein delegated Petitioner's defense to Adam Koppekin without Petitioner's consent. (Appendix A.) Koppekin failed to adequately prepare, failed to meaningfully consult with Petitioner, and had not reviewed critical discovery with Petitioner until immediately before jury selection. When Petitioner requested additional time to retain new counsel, the trial court denied the request without meaningful inquiry and proceeded to trial. The denial of Petitioner's request was not the result of delay caused by Petitioner. Instead, it resulted from the breakdown in the attorney-client relationship and counsel's failure to use the available time to prepare a defense. The

state court failed to identify any legitimate countervailing interest sufficient to overcome Petitioner's constitutional right to counsel of choice.

This Court's review is warranted because the decision below leaves unresolved whether the Sixth Amendment permits a defendant to be deprived of his chosen counsel when retained representation is transferred to an unprepared attorney without the defendant's agreement. The Sixth Amendment protects not merely the appearance of representation, but the defendant's right to meaningful assistance from counsel that he selected.

III. THE COURT SHOULD GRANT REVIEW BECAUSE THIS CASE PRESENTS AN IMPORTANT QUESTION REGARDING THE DUE PROCESS LIMITS ON THE ADMISSION OF HIGHLY PREJUDICIAL UNCHARGED SEXUAL MISCONDUCT EVIDENCE THAT RISKS CONVICTION BASED ON PROPENSITY RATHER THAN PROOF BEYOND A REASONABLE DOUBT.

The Court should grant review because this case implicates the fundamental requirement that criminal convictions rest on proof of the charged offenses, not a defendant's perceived character or propensity. Uncharged misconduct evidence creates an extraordinary risk that jurors will abandon the presumption of innocence and convict based on emotion or moral judgment rather than the evidence presented at trial.

Although evidentiary rules generally govern the admission of other-act evidence, those rules cannot be applied in a manner inconsistent with due process. Evidence that is so inflammatory and lacking in legitimate probative value that it

renders a trial fundamentally unfair violates the Constitution. *Estelle v. McGuire*, 502 U.S. 62, 68 (1991); *Jammal v. Van de Kamp*, 926 F.2d 918, 920 (9th Cir. 1991).

Here, the trial court admitted allegations of unrelated sexual misconduct involving two individuals who were never charged. The prosecution argued the evidence demonstrated "propensity" and a "pattern of conduct," effectively inviting the jury to conclude that Petitioner committed the charged offenses because he was the type of person capable of committing them. The court admitted the evidence despite the lack of meaningful proof that Petitioner committed those alleged acts and despite the substantial risk of unfair prejudice.

By allowing the jury to hear inflammatory allegations unrelated to the charged offenses, the trial court permitted the prosecution to portray Petitioner as a serial offender rather than requiring proof of each charged crime beyond a reasonable doubt. The resulting verdict was therefore infected by the risk that the jury relied on character judgment rather than evidence.

This Court's review is warranted because the decision below permits convictions to stand where highly prejudicial propensity evidence creates an unacceptable risk that juries will convict based on character rather than proof. The constitutional limits on such evidence require clarification, particularly in cases involving allegations of sexual misconduct where the danger of unfair prejudice is exceptionally high.

IV. THE COURT SHOULD GRANT REVIEW BECAUSE THIS CASE PRESENTS AN IMPORTANT QUESTION REGARDING THE FOURTEENTH AMENDMENT'S REQUIREMENT OF PROOF BEYOND A REASONABLE DOUBT WHERE A CONVICTION RESTS UPON INCONSISTENT TESTIMONY THAT IS NOT SUPPORTED BY PHYSICAL EVIDENCE OR OBJECTIVE CORROBORATION.

The Court should grant review because this case implicates the fundamental constitutional requirement that criminal convictions be based upon proof beyond a reasonable doubt rather than speculation, suspicion, or unreliable accusations. The Due Process Clause requires that before the government may deprive a person of liberty, it must establish every element of the charged offense with evidence sufficient to convince a rational factfinder of guilt beyond a reasonable doubt.

This case presents an important question concerning the constitutional limits of judicial deference to jury credibility determinations where the prosecution's evidence is internally inconsistent, contradicted by objective evidence, and dependent upon testimony containing admitted falsehoods. Although credibility assessments are ordinarily reserved for the jury, the Constitution does not permit a conviction to stand where the evidence supporting guilt is so unreliable that no rational factfinder could conclude beyond a reasonable doubt that the defendant committed the charged offenses.

The Fourteenth Amendment provides that no State shall "deprive any person of life, liberty, or property, without due process of law." U.S. Const. amend. XIV. This Court has long recognized that this guarantee protects an accused from conviction except upon proof beyond a reasonable doubt of every fact necessary to

constitute the offense charged. *In re Winship*, 397 U.S. 358, 364 (1970). The reasonable doubt standard serves as a fundamental safeguard against wrongful convictions by requiring that guilt be established through reliable evidence rather than conjecture or inference unsupported by the record.

In *Jackson v. Virginia*, 443 U.S. 307 (1979), this Court held that a conviction violates due process where, viewing the evidence in the light most favorable to the prosecution, no rational trier of fact could have found the essential elements of the offense beyond a reasonable doubt. While courts must ordinarily defer to reasonable credibility determinations made by the jury, that principle does not permit courts to disregard undisputed evidence demonstrating that the prosecution's evidence is unreliable or objectively contradicted.

Here, Petitioner's convictions rested primarily upon the testimony of the complaining witnesses, however, critical portions of their testimony were contradicted by physical evidence, investigative evidence, and their own admissions. The allegations of Mariana V., who testified regarding counts one through four, provide a clear example. Mariana claimed that Petitioner forcibly assaulted her for an extended period of time, including allegations that he forcibly sodomized her, attempted to suffocate her, and prevented her from leaving the motel room. (2RT 388-398.) However, the medical evidence did not corroborate the most significant aspects of her account. The sexual assault examination did not reveal injuries consistent with the alleged prolonged violent assault, did not reveal physical evidence supporting the claimed strangulation, and did not show the type of injuries

expected from the conduct she described. (3 RT 902-907; 920-922.) The objective evidence therefore substantially undermined the factual basis of the most serious allegations presented to the jury.

Further, the testimony of Airam H. was similarly compromised. Airam admitted at trial that she falsely told police that Petitioner grabbed her and forced her into his vehicle. (2RT 359-360.) She acknowledged that this statement was untrue and explained that she made the accusation because she believed it would cause police to locate her missing phone more quickly. An admitted false statement concerning a material fact directly affected the reliability of her remaining testimony and raised serious concerns regarding whether her allegations could constitutionally support a conviction.

Moreover, Eva E.'s testimony also contained significant contradictions with the physical evidence. Eva testified that the motel room contained multiple locks preventing her from leaving and that she struck Petitioner in the head with a telephone. (4 RT 420, 1829.) However, photographs and other evidence introduced at trial did not support those claims. The evidence did not demonstrate the alleged locking mechanism, and the physical evidence from the room did not show the telephone that allegedly served as a weapon. (4 RT 1829.) These inconsistencies directly affected the reliability of the account presented to the jury.

The testimony of Maritza M. similarly raised substantial reliability concerns. During the investigation, Maritza was shown a photographic lineup but failed to identify Petitioner. (3RT 1304-1305.) She was later unable to identify Petitioner

during an in-person identification procedure at the jail. (3RT 1305-1307). However, her testimony was presented at trial despite the absence of prior identification evidence connecting Petitioner to the alleged offense.

The prosecution's burden cannot be satisfied by evidence that merely creates suspicion or by allegations that appear serious but are unsupported by reliable evidence. The Constitution requires more. A conviction based upon unreliable testimony that is contradicted by objective evidence raises a fundamental due process concern because the jury's verdict may reflect acceptance of accusations rather than proof of guilt beyond a reasonable doubt.

The lower courts' rejection of this claim essentially allows a conviction to stand despite substantial evidence that the prosecution's proof was unreliable and contradicted by the record. This Court's review is warranted because this case presents an important constitutional question concerning the proper application of the reasonable doubt standard when a conviction depends upon inconsistent testimony and evidence that does not reliably establish guilt. The Due Process Clause requires that criminal convictions rest upon proof beyond a reasonable doubt, not speculation, suspicion, or unreliable accusations.

V. THE COURT SHOULD GRANT REVIEW BECAUSE THIS CASE PRESENTS AN IMPORTANT QUESTION REGARDING THE SCOPE OF THE SIXTH AMENDMENT RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL WHERE COUNSEL FAILS TO INVESTIGATE CRITICAL EXCULPATORY EVIDENCE, FAILS TO PRESENT AVAILABLE DEFENSES, AND PREVENTS THE DEFENDANT FROM MEANINGFULLY PARTICIPATING IN HIS OWN DEFENSE.

The Court should grant review because this case presents a substantial question concerning the continued vitality of *Strickland's* guarantee that criminal defendants receive meaningful, not merely formal, representation. The Sixth Amendment requires counsel to conduct reasonable investigation, consult with the defendant, and make informed strategic decisions based upon adequate preparation.

This case involves more than disagreement over trial strategy. Counsel failed to investigate readily available evidence directly supporting Petitioner's defense, including witnesses, surveillance footage, cellular records, expert testimony, and evidence contradicting the prosecution's theory. (Appendix A.) These failures prevented the jury from hearing critical evidence concerning consent, credibility, and innocence.

The constitutional question presented is whether a conviction may stand where counsel's failure to investigate deprived the defendant of the meaningful opportunity to present his defense. The Sixth Amendment guarantees a criminal defendant the effective assistance of counsel. *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (per curiam). This right is violated when counsel's performance falls below an objective standard of reasonableness and the deficient performance prejudices the defense. *Strickland v. Washington*, 466 U.S. 668, 687 (1984).

To establish ineffective assistance, Petitioner must demonstrate that counsel's performance was deficient and that the deficient performance prejudiced the defense. *Id.* at 687. Deficient performance requires showing that counsel's

representation fell below an objective standard of reasonableness. *Id.* at 688. Prejudice exists where there is a reasonable probability that, absent counsel's errors, the result of the proceeding would have been different. *Id.* at 694.

Counsel has a duty to make reasonable investigations or reasonably determine that further investigation is unnecessary. *Strickland, supra*, at 691. Counsel must conduct careful factual and legal investigation to develop available defenses and make informed decisions on behalf of the defendant. *In re Saunders*, 2 Cal.3d 1033, 1043-44 (1970). A lawyer who fails to investigate and present evidence demonstrating innocence or creating reasonable doubt provides deficient performance. *Riley v. Payne*, 352 F.3d 1313, 1318 (9th Cir. 2003).

Courts have repeatedly recognized that counsel's failure to investigate favorable evidence, witnesses, or expert testimony may constitute ineffective assistance. *In re Neely*, 6 Cal.4th 901, 919 (1993); *In re Noday*, 125 Cal.App.3d 507 (1981); *People v. Day*, 2 Cal.App.4th 405 (1992); *In re Hall*, 30 Cal.3d 408 (1981). Counsel's investigative duty exists so that witnesses may be interviewed and evidence preserved while memories remain fresh. *Lavallee v. Justices in Hampden Sup. Ct.*, 442 Mass. 228 (2004).

Trial counsel failed to conduct the basic investigation required by the Sixth Amendment. Counsel failed to investigate witnesses, obtain surveillance footage, secure cellular records, retain necessary experts, or present evidence contradicting the prosecution's theory. (Appendix A.) These failures deprived the jury of evidence relevant to consent, credibility, and innocence.

Counsel also repeatedly continued the case without Petitioner's consent and without a defense-related basis. (Appendix A.) Although counsel may waive speedy trial rights when acting in a defendant's best interests, such authority does not permit delays unrelated to the defense. *People v. Harrison*, 35 Cal.4th 208, 225 (2005); *Townsend v. Superior Court*, 15 Cal.3d 774, 781, 784 (1975). The continuances were used to accommodate counsel's other obligations rather than investigate or prepare a defense. (Appendix A.) During this time, evidence became harder to obtain and memories faded. Counsel failed to pursue evidence Petitioner repeatedly identified, including witnesses, surveillance, cellular records, and expert testimony. (Id.)

Regarding Eva E., Petitioner informed counsel that cellular records and text messages would show the encounter was consensual. (Appendix A.) Eva texted Petitioner on March 31, 2016, between 21:00 and 23:00, stating she was horny and wanted to have sex. (Id.) She also contacted Petitioner to arrange the encounter. (Id.) Petitioner informed counsel that Jessica, who introduced Eva to Petitioner, could testify regarding a prior consensual arrangement involving sexual activity for money. (Id.) Although Jessica was identified in police reports and available, counsel never contacted her or presented her testimony. (Id.)

Counsel was similarly ineffective regarding Maritza M. Petitioner requested surveillance footage from the Del Mar Motel, located at 1605 Del Mar Avenue, Rosemead, California, and motel records from January 29, 2017. (Appendix A.) This evidence would have shown that Petitioner and Maritza arrived together

voluntarily and undermined the kidnapping allegations. (Id.) Petitioner also requested surveillance footage from businesses near 9614 through 9628 Valley Boulevard in Rosemead and El Monte between approximately 18:30 and 19:30 on January 29, 2017. (Appendix A.) Police reports indicated that High-Tech Task Force footage existed but was never disclosed or presented. (Id.) The footage would have supported Petitioner's defense that Maritza voluntarily accompanied him. (Id.)

Petitioner also requested historical cellular records showing his location and communications with Maritza. (Appendix A.) The records would have confirmed communications, established Petitioner's location, and supported his claim that he contacted Maritza after a consensual encounter. (Id.) Counsel failed to obtain or present this evidence.

Counsel further failed to retain DNA, sexual assault, and cellular experts. (Appendix A.) No DNA from Petitioner was found on any complainant, and expert testimony regarding DNA transfer and sexual assault examinations could have undermined the prosecution's allegations. (Id.) Counsel also failed to present the significance of the absence of DNA evidence. (Id.) A cellular expert could have analyzed phone records, cell towers, and location data relating to the Maritza allegations, but counsel failed to investigate or present this evidence. (Appendix A.)

Counsel was also ineffective for failing to challenge Petitioner's custodial statements to Detective Bailey. Petitioner invoked his Fifth and Sixth Amendment rights to remain silent and counsel, but police failed to honor those invocations. (Appendix A.) Petitioner's ability to refuse questioning was further affected by

mental health and substance abuse issues. (Id.) Counsel failed to seek suppression of the statements.

Counsel likewise failed to challenge Petitioner's interrogation by Detective Jara, during which Detective Jara directed Petitioner regarding what to say, undermining the voluntariness of the statements. (Appendix A.) A conviction may not rest on an involuntary confession. *Lego v. Twomey*, 404 U.S. 477, 483 (1972). The prosecution bears the burden of proving voluntariness. *People v. Carrington*, 47 Cal.4th 145, 169 (2009). The inquiry is whether the defendant's will was overborne or whether the confession was the product of free choice. *Schneckloth v. Bustamonte*, 412 U.S. 218, 225 (1973). Relevant factors include coercion, interrogation circumstances, and the defendant's physical and mental condition. *People v. Williams*, 16 Cal.4th 635, 660 (1997). Counsel failed to litigate these issues, and admission of the statements prejudiced Petitioner because they provided damaging evidence that should have been excluded. (Appendix A.)

Counsel also failed to challenge the search of Petitioner's vehicle. Petitioner did not consent to the search and did not abandon his privacy interest. (Appendix A.) The Fourth Amendment, applied through the Fourteenth Amendment, protects against unreasonable searches and seizures. *Mapp v. Ohio*, 367 U.S. 643, 655-657 (1961); *Katz v. United States*, 389 U.S. 347, 350 (1967). A warrantless search is presumptively unreasonable unless an exception applies. *Katz, supra*; *People v. Justin*, 140 Cal.App.3d 729, 734 (1983). The inquiry is whether a person had a

reasonable expectation of privacy that was violated by unreasonable governmental intrusion. *Burrows v. Superior Court*, 13 Cal.3d 238, 243 (1974).

Because the People could not establish a constitutional basis for the search, counsel's failure to challenge the admission of evidence obtained from Petitioner's vehicle was deficient. The evidence was highly prejudicial because it connected Petitioner to alleged drug use and sexual activity, reinforcing the prosecution's theory. (Appendix A.)

Counsel was further ineffective for interfering with Petitioner's right to testify in his own defense. (Appendix A.) Although decisions regarding trial strategy generally fall within counsel's authority, a defendant may not be prevented from testifying when he wishes to do so. *People v. Robles*, 2 Cal.3d 205, 214-215 (1970). Petitioner sought to testify regarding what actually occurred with each complainant and to present his defense that the allegations were fabricated. (Appendix A.) Counsel's interference prevented Petitioner from providing the jury with direct evidence supporting his innocence.

Counsel's failures cannot be characterized as reasonable strategic decisions because they resulted from a failure to investigate and prepare. Counsel did not make informed tactical choices after reviewing evidence; counsel failed to obtain the evidence necessary to make such choices. *Strickland, supra*, at 691.

In addition to failing to investigate and present a defense, trial counsel deprived Petitioner of his Sixth Amendment right to counsel of choice. The Sixth Amendment provides that "[i]n all criminal prosecutions, the accused shall enjoy

the right ... to have the Assistance of Counsel for his defence." U.S. Const., 6th Amend. Although the right to appointed counsel is fundamental, the Sixth Amendment also protects a defendant's right to retain counsel of his choosing. *Powell v. Alabama*, 287 U.S. 45, 53 (1932); *United States v. Gonzalez-Lopez*, 548 U.S. 140, 144 (2006). The right to counsel of choice is not absolute, but courts must balance legitimate concerns of judicial administration against the defendant's constitutional right to representation by chosen counsel. *Wheat v. United States*, 486 U.S. 153, 159 (1988); *Gonzalez-Lopez, supra*, at 152. A court's arbitrary insistence on proceeding despite a legitimate need for delay may violate the right to counsel. *Morris v. Slappy*, 461 U.S. 1, 11-12 (1983).

Here, Petitioner retained Mark Bledstein as counsel. (Appendix A.) Instead of personally representing Petitioner as contemplated by the retainer agreement, Bledstein delegated Petitioner's defense to another attorney, Adam Koppekin. (Id.) This deprived Petitioner of the representation he had retained and expected. (Id.) Bledstein also provided Petitioner with materially inaccurate advice regarding sentencing exposure, informing Petitioner that his maximum exposure was 100 years despite Petitioner ultimately receiving multiple life sentences. (Appendix A.) Bledstein further represented that he had retained a doctor who would prepare a report favorable to Petitioner, but when Petitioner requested the report, Bledstein could not produce it. (Id.) Bledstein promised on multiple occasions to visit Petitioner in jail but failed to do so for nearly two years. (Appendix A.) Koppekin likewise failed to meet with Petitioner in jail to discuss trial strategy or prepare a

defense. (Id.) When Petitioner informed Bledstein of Koppekin's failures, Bledstein took no action to protect Petitioner's rights. (Id.)

Counsel's failures forced Petitioner to proceed to trial without meaningful preparation. Counsel waited until jury selection to review discovery with Petitioner, preventing Petitioner from meaningfully assisting in his defense. *People v. Yu*, WL 70458 (2021); (Appendix A.) The denial of Petitioner's ability to adequately prepare with counsel contributed to the breakdown of the adversarial process. Because counsel failed to adequately prepare, Petitioner was also forced to appear before the jury wearing jail clothing during jury selection. (Appendix A.)

The Supreme Court has recognized that compelling a defendant to appear before a jury in identifiable prison clothing undermines the presumption of innocence and violates due process. *Estelle v. Williams*, 425 U.S. 501, 503-05 (1976). The presumption of innocence is a fundamental component of a fair criminal trial. *Estelle, supra*, at 504. Prison clothing creates an unacceptable risk that jurors will view a defendant as already guilty and may influence the jury's assessment of credibility and guilt. *Id.* at 504-05. Courts must remain alert to factors that undermine the fairness of the fact-finding process. *Id.* at 503.

Petitioner requested permission from counsel and the bailiff to change out of his prison attire, but his request was denied. (Appendix A.) The jury therefore saw Petitioner in jail clothing during jury selection, impairing the presumption of innocence before evidence was presented. (Id.)

Counsel was also unprepared for jury selection and failed to conduct meaningful questioning of prospective jurors regarding potential biases, prejudice, or disqualifying beliefs. (Appendix A.) Jury selection lasted approximately four hours despite the seriousness and complexity of the charges. (Id.) Counsel's failure to adequately prepare for jury selection further deprived Petitioner of a fair and impartial jury.

The cumulative effect of counsel's failures prevented Petitioner from presenting his defense. Counsel failed to investigate the prosecution's witnesses, failed to obtain readily available evidence, failed to present expert testimony, failed to challenge damaging evidence, and prevented Petitioner from fully assisting in his own defense. (Appendix A.)

Petitioner's defense was that he was falsely accused after consensual encounters involving individuals seeking money for sexual activity. (Appendix A.) The evidence supporting this defense was not speculative, it included inconsistent statements by the complainants, the lack of physical evidence supporting the allegations, and evidence that counsel failed to investigate and present.

With respect to Airam H., Petitioner informed counsel that Airam voluntarily accepted a ride from Petitioner and agreed to spend time with him in exchange for money. (Appendix A.) Petitioner stated that Airam never asked to leave or indicated she was being forced to remain with him. (Id.) Petitioner stated that when they arrived at the motel, Airam accepted money from him and later left. (Id.)

With respect to Eva E., Petitioner informed counsel that Eva initiated contact by texting and calling him regarding a consensual sexual encounter. (Appendix A.) Petitioner stated that Eva had previously been introduced to him as a prostitute by Jessica and that they agreed to exchange money for consensual sexual activity. (Id.) Petitioner further stated that after an argument regarding payment, Eva pepper-sprayed him, took his money, and contacted police. (Id.)

With respect to Mariana V., Petitioner informed counsel that he encountered Mariana in an area known for prostitution and that she voluntarily entered his vehicle after agreeing to exchange sexual activity for money. (Appendix A.) Petitioner stated that they went to a motel, where Mariana later became intoxicated, used drugs, locked herself in the bathroom with the money provided to her, and began screaming, resulting in police involvement. (Id.)

With respect to Maritza M., Petitioner informed counsel that he encountered Maritza on Valley Boulevard and offered her money to spend time with him. (Appendix A.) Petitioner stated that Maritza agreed to have consensual sex in exchange for money, entered his vehicle voluntarily, and later fled with the money. (Id.)

Each complainant provided different versions of events at trial, preliminary hearings, and during police interviews. Their accounts were inconsistent with one another and contradicted by physical evidence, including DNA and SART evidence. Counsel failed to effectively investigate or present these inconsistencies to the jury. (Appendix A.)

The evidence available to counsel would have substantially undermined the prosecution's case. The complainants' allegations were inconsistent with one another and inconsistent with the objective evidence. Counsel failed to investigate or present evidence that would have demonstrated those inconsistencies and supported Petitioner's defense. (Appendix A.)

The prosecution relied heavily on the credibility of the complainants. Because the case depended almost entirely on their testimony, evidence undermining their credibility was critical. Counsel's failure to investigate witnesses, obtain surveillance footage, obtain cellular records, present expert testimony, and effectively challenge the complainants' accounts deprived Petitioner of the ability to meaningfully defend himself.

Had counsel investigated and presented the available evidence, there is a reasonable probability that the outcome of the trial would have been different. *Strickland, supra*, at 694. The omitted evidence was not cumulative, it directly addressed the central issues in the case, including consent, credibility, and whether the alleged crimes occurred at all. Counsel's failures were particularly prejudicial because the jury never heard the evidence that would have allowed it to evaluate the prosecution's theory against Petitioner's defense. Instead, the jury received only the prosecution's narrative, without critical evidence contradicting the complainants' allegations. (Appendix A.)

The constitutional right to counsel requires more than the presence of an attorney at trial. It requires meaningful advocacy based upon reasonable

investigation and preparation. *Strickland, supra*, at 687. Counsel's failure to investigate and present available evidence rendered Petitioner's representation constitutionally deficient.

The cumulative effect of counsel's errors also requires relief. Even where individual errors are considered separately, the combined impact of counsel's failures deprived Petitioner of a fair trial. Counsel failed to investigate witnesses, failed to obtain available documentary and physical evidence, failed to present expert testimony, failed to challenge inadmissible evidence, failed to protect Petitioner's right to testify, and failed to adequately prepare for trial. (Appendix A.) These failures were not strategic decisions made after reasonable investigation. Rather, they resulted from counsel's failure to prepare and investigate the defense. Counsel cannot make a reasonable tactical decision where counsel has failed to discover the evidence necessary to make an informed choice. *Strickland, supra*, at 691.

The lower courts' rejection of this claim warrants review because it permits a conviction to stand where counsel failed to perform the basic investigative functions required by the Sixth Amendment. This case presents an important question regarding the application of Strickland where counsel's failures were not matters of trial strategy, but instead reflected a breakdown in the adversarial process that prevented Petitioner from presenting a meaningful defense.

The Sixth Amendment guarantees every criminal defendant a fair opportunity to defend against the charges brought by the government. That

guarantee is meaningless if counsel fails to investigate available evidence, fails to present critical defenses, and fails to provide the jury with evidence central to determining guilt or innocence. Because counsel's deficient performance deprived Petitioner of a meaningful defense and undermined confidence in the verdict, this Court should grant review and provide appropriate relief.

VI. THE COURT SHOULD GRANT REVIEW BECAUSE THIS CASE PRESENTS AN IMPORTANT QUESTION REGARDING WHETHER THE CONSTITUTION PERMITS A PERSON TO REMAIN INCARCERATED AFTER A TRIAL TAINTED BY MULTIPLE CONSTITUTIONAL ERRORS AND SUBSTANTIAL EVIDENCE OF ACTUAL INNOCENCE.

This case presents the extraordinary circumstance where multiple constitutional violations converged to produce a fundamentally unreliable conviction. Petitioner's actual innocence evidence is not merely a challenge to witness credibility, it demonstrates that the jury was deprived of critical evidence necessary to determine whether the alleged crimes occurred at all.

This Court has recognized the importance of constitutional protections preventing the incarceration of innocent persons. The question presented is especially significant where ineffective assistance of counsel prevented the jury from considering evidence supporting innocence and undermined the reliability of the verdict.

In *Herrera v. Collins*, 506 U.S. 390 (1993), the Supreme Court assumed, without deciding, that the execution of an innocent person would violate the Constitution. The Court did not define the precise standard for a freestanding

actual innocence claim but held that the required showing would be "extraordinarily high" and "truly persuasive." *Herrera, supra*, at 417; accord *id.* at 426 (O'Connor, J., concurring). The Court found no need to further define the standard because Herrera's evidence was insufficient under any formulation. *Id.* at 417-19. Justice White suggested that the minimum showing would be comparable to the standard for insufficient evidence under *Jackson v. Virginia*, 443 U.S. 307, 324 (1979), considering both newly presented evidence and the trial record. *Herrera, supra*, at 429 (White, J., concurring).

The Ninth Circuit, however, concluded that *Herrera* requires a showing beyond mere insufficiency of the evidence and declined to adopt a modified *Jackson* standard. *Carriger v. Stewart*, 132 F.3d 463, 476 (9th Cir. 1997). A petitioner asserting a freestanding innocence claim must therefore affirmatively demonstrate probable innocence, not merely raise doubt regarding guilt. *Id.*; *Herrera, supra*, at 442-44 (Blackmun, J., dissenting).

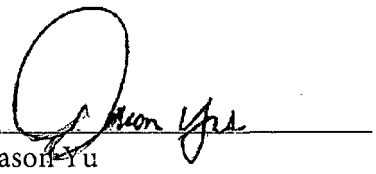
For the reasons set forth above, trial counsel was ineffective for failing to investigate and present substantial evidence of Petitioner's innocence. Counsel's failures prevented the jury from receiving an accurate account of what occurred between Petitioner and the complainants. Counsel's interference with Petitioner's ability to present his own defense further deprived Petitioner of a meaningful opportunity to establish his innocence.

This case presents the extraordinary circumstance where multiple constitutional violations combined to produce a conviction despite substantial

evidence supporting Petitioner's innocence. Review is warranted because the continued incarceration of a person whose trial was fundamentally compromised presents an important constitutional question: whether the Due Process Clause provides a meaningful safeguard against imprisonment where constitutional errors prevented the jury from considering critical evidence.

CONCLUSION

For the reasons set forth herein, the petition for certiorari should be granted.

Date: October 16th, 2026 /s/ 

Jason Yu
Petitioner, Pro Se