COPY

No. _____

IN THE

SUPREME COURT OF THE UNITED STATE

SIRHAN BISHARA SIRHAN — PETITIONE
(Your Name)

VS.

P.D. BRAZELTON, WARDEN ET AL — RESPONDEN

MOTION FOR LEAVE TO PROCEED *IN FORMA PA*

The petitioner asks leave to file the attached petition for a without prepayment of costs and to proceed *in forma pauperis*.

Please check the appropriate boxes:

☒ Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):
United States District Court - Central District of California - United States Court of Appeals - Ninth Circuit

☐ Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

☐ Petitioner's affidavit or declaration in support of this motion is attached hereto.

☐ Petitioner's affidavit or declaration is **not** attached because the court below appointed counsel in the current proceeding, and:

☐ The appointment was made under the following provision of law: _____, or

☐ a copy of the order of appointment is appended.

(Signature)

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SUPREME COURT, U.S.
FILED
2006 JUL 27 P 12:55

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In The

Supreme Court of the United Stat

SPRING TERM, 2016

SIRHAN BISHARA SIRHAN
PETITIONER
V.

P.D. BRAZELTON, WARDEN E
RESPONDENTS

On Petition for a Writ of Certiorari to the
United States Court of Appeals,
For The Ninth Circuit

PETTION FOR A WRIT OF CERTIORARI

Of counsel:
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July 2016

Counsel For Petitioners

QUESTION PRESENTED

Are Sixth and Fourteenth Amendment Rights to effective legal assistance for a defendant in criminal case, violated when defense counsel is personally subject to a pending criminal indictment during the trial and then who clearly, on the record, collaborates with the prosecution on every basic issue even to the extent of proclaiming defendant's guilt to the jury, resulting in a guilt verdict and a sentence of death?

RULE 14.1(B) LIST OF PARTIES

Petitioner:

Sirhan Bishara Sirhan

Respondent:

P.D. Brazelton, Warden Et Al

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PETTION FOR A WRIT OF CERTIORARI

Petitioner, Sirhan Bishara Sirhan, a prisoner in the California State Prison system, subsequent to being arrested and charged with the murder of Senator Robert F. Kennedy, has not only been previously denied, on appeal his petition for a new trial, on his *habeas corpus* petition for an evidentiary hearing but also he has been denied a Certificate of Appealability even in the force of powerful new forensic evidence.

Petitioners, respectfully prays that a Writ of Certiorari issue to review the decision of the Ninth Circuit Court of Appeals.

OPINIONS BELOW

The referenced Opinions and orders entered below cue:

1. 9th Circuit Opinion dated 3/30/2016 denying Certificate of Appealability (see insert A); and,

2. 9th Circuit Opinion dated 4/27/2016 denying request for a re-hearing *en banc* (see insert A).

JURISDICTION

The Ninth Circuit Court of Appeals entered an *en banc* decision denying Petitioner's Certificate of Appealability on April 27, 2016. This Court's jurisdiction is timely invoked under 28 USC § 1254(1).

CONSTITUTIONAL PROVISIONS INVOLVED

The Sixth Amendment to the U. S. Constitution has over the course of the last 84 years been expanded to include the right to counsel. This right has long been recognized as a necessary requisite of due process of law and until respect to State trial proceeding, as in the instant case, it is now irrefutably binding and applicable through the 14th Amendment to the states which in part provides that a state may not "... deprive any person of life, liberty, or property without due process of law..."

RELEVANT STATUTORY PROVISIONS

Section 2254 of Title 28 of the United StatesCode, as amended by the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) reads in relevant part:

"(d) 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 of the claim—
(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States..." 28 U.S.C. § 2254(d).

STATEMENT

This petition arises out of a court order denying a Certificate of Appealability to Petitioner who was appealing the denial of his petition in a new trial or, in the alternative an evidentiary hearing at which he was prepared to introduce new, recently developed evidence, which in the case of the new forensic evidence was never before available due to the prior state of the relevant technology.

SUMMARY OF FACTS AND SUMMARY OF PROCEEDINGS BELOW

Petitioner was arrested and charged with the June 6, 1968 murder of the Senator Robert F. Kennedy. Since the conclusion of his capital murder trial in 1969, Petitioner has continually sought a new trial or, at least, an evidentiary hearing. The most recent effort was denied by the District Court along with that court's refusal to grant a Certificate of Appealability.

WHY IS THIS A FINAL JUDGEMENT

The Ninth Circuit's en banc ruling and order explicitly stated that, "No further filings will be entertained in this closed case." DENIED. [9954753] MS

REASONS FOR GRANTING THE WRIT

A. IF ALLOWED TO STAND THE DECISION BELOW EVISCERATES THE SIXTH AND FOURTEENTH AMENDMENTS' BASIC CONSTITUTIONAL RIGHT OF A CRIMINAL DEFENDANT TO A FAIR TRAIL, BY ELIMINATING THE REQUIREMENT FOR EFFECTIVE LEAGAL ASSSISTANCE AND REPRESENTATION

Subsequent to being arrested and charged with the murder of Senator Robert F. Kennedy, Appellant was represented at trial by his lead counsel, Grant Cooper. Appellant, to his detriment, never understood the degree and effect of the conflict, which would totally compromise his opportunity for a fair trial and compel ineffective assistance of counsel. Grant Cooper, the head counsel, during the entire trial was under a federal criminal indictment and subject to all the leverage and intimidation that imposes.

From the irrefutable history of acts and omissions by defense counsel representation at trial this is undeniable. As only a portion of this reprehensible legal assistance we note the following:

A. Defense Counsel explicitly advised the jury that his client was guilty and should be so found.

B. Defense Counsel acquiesced to the suppression of the autopsy report by the Prosecution. The trial started on January 7, 1969 and the defense received the autopsy report on or about February 22, 1969. This had to of caused ineffective assistance of counsel and a mistrial should have been requested.

C. Defense Counsel never questioned any ballistics evidence and even stipulated regarding bullets that had not yet been introduced into court. Stipulations were entered into even when there were no benefits to the Appellant.

D. Defense Counsel never did any ballistic tests on the gun or any of the bullets, which is unheard of in a murder case.

E. Defense Counsel undertook no investigation into the actual crime or into the possibility of a second gunman.

F. Defense Counsel ignored critical eye-witnesses. Defense Counsel nevercross-examined Sandra Serrano who claimed to have seen two people fleeing the scene and verbally claiming responsibility for the shootings.

G. Defense Counsel never questioned one participant Rafier Johnson about why he held on to the gun and did not turn it over to the police at the scene of the crime. The chain of custody *should* have been raised and a mistrial requested.

H. Defense Counsel never asked about witness Scott Enyard's photos, which were taken at the scene of the crime and then confiscated by the LAPD. Defense Counsel should have demanded to review said photos, which were among thousands of photographs destroyed by the L.A.P.D.

I. Defense Counsel never objected to any evidence obtained, without a warrant, during a search of Appellant's mother's house.

J. Defense Counsel never questioned why no blood or urine tests were conducted on the Appellant at the time of his arrest. This impeded his ability and of more importance, the jurors ability, to know if the Appellant was under the influence of alcohol and or drugs at the time of his arrest.

K. Defense Counsel never asked the Medical Examiner, Dr. Nogchi, to identify the bullets he removed and had marked from the Senator's neck.

L. Defense Counsel never called a security guard Thane Eugene Cesar to testify. Cesar, a security guard, stood to the right of the Senator at the time he was shot and he had a gun in his possession.

M. Defense Counsel explicitly referred to his client to the Jury as a danger to society.

N. Defense Counsel never called or examined witnesses who stated, on the record, that Appellant was always in front of the Senator who was hit by four powder burn shots from the rear.

O. Defense Counsel never introduced evidence that Appellant's gun hand was pinned to a steam table after he fired two shots, whilst the Senator was hit by four shots from the rear, raising the issue of a second gunman.

B. PETITIONER WAS ALSO DENIED EFFECTIVE ASSISTANCE OF COUNSEL BECAUSE OF COUNSEL'S FAILURE TO INVESTIGATE OTHER POSSIBLE THEORIES OF THE CRIME, COUNSEL'S STIPULATION TO THE AUTHENTICIT OF THE BALLISTICS EVIDENCE WITHOUT CONDUCTING ANY FORENSIC INVESTIGATION, AND COUNSEL'S FAILURE TO MOVE FOR A MISTRIAL AND/OR CONTINUANCE ONCE THE EXCULPATORY AUTOPSY REPORT WAS DISCLOSED AFTER THE COMMENCEMENT OF TRIAL

An ineffective assistance of counsel claim has two elements: (1) that counsel's performance was constitutionally deficient; and,(2)that these deficiencies affirmatively "prejudiced" the defendant. Strickland v. Washington, 466 U.S. 668, 687 (1984). In addressing the deficiency prong, the Supreme Court has stated that a convicted defendant "must show that counsel's representation fell below an objective standard of reasonableness" Id., 466 U.S. at 687-88. The Court declined to adopt "(m)ore specific guidelines" because "(n)o particular set detailed rules for counsel's conduct can satisfactorily take account of the variety of circumstances faced by defense counselor the range of legitimate decisions regarding how best to represent a criminal defendant." Id., 466 U.S. at 688-89. To complement the generality of the "objective standard of reasonableness" beneath which counsel's performance must fall in order to be considered constitutionally unreasonable, the Supreme Court stated in Strickland that "(a) convicted defendant making a claim of ineffective assistance must identify the acts or omissions of counsel that are alleged not to have been the result of reasonable professional judgment." Id at 690. Petitioner has alleged a variety of specific acts or omissions of counsel that were not "the result of reasonable professional judgment," and in particular focuses upon three here: First, counsel's stipulation to the authenticity of ballistics evidence, especially People's Exhibit 47, offered as the bullet recovered from the Senator Kennedy's neck; second, trial counsel's failure to investigate other possible defenses; and third, counsel's failure to move for a mistrial and/or continuance once the autopsy report was disclosed.

On February 21, 1969, in the middle of trial, defense counsel stipulated to the authenticity of bullets yet to be introduced. (Petition for a Writ of Habeas Corpus, 28, May 25, 2000.) Specifically, defense counsel stipulated to the authenticity of what would become People's Exhibit 47, which prosecution witness De Wayne Wolfer testified was removed from Senator Kennedy's neck during the autopsy and which Wolfer claimed to have "matched" to a

bullet from Petitioner's revolver. Counsel's decision to stipulate to the authenticity of the State's ballistics evidence cannot be seen as an unassailable "strategic choice" because (1) defense received no corresponding benefit for it's stipulation; (2) the stipulation was not based in fact; and, (3) the decision was not made after a "through investigation."

Virtually every case rejecting counsel's stipulation to a piece of prosecution evidence exhibits one of these three characteristics. The notion that a stipulation is a "strategic choice" to the extent that defendant receives some sort of corresponding benefit is demonstrated by Sanchez v. Hedgpeth, 706 F. Supp.2d 963 (C.D. Ca. 2010). In Hedgpeth, the court rejected this claim, reasoning that "the stipulation greatly benefitted Petitioner by keeping facts about his prior conviction from being admitted into evidence." Hedgpeth, 706 F.Supp.2d at 1004.

In contrast to Hedgpeth, Petitioner here derived no benefit from counsel's stipulation to the authenticity of the ballistics evidence, in particular People's Exhibit 47. Conceding the authenticity of the ballistics evidence did not keep the jury from hearing negative facts about the Petitioner, as in Hedgpeth. Nor did stipulating to the authenticity of the ballistics evidence allow the introduction of favorable evidence for the Petitioner. Lastly, this is not an instance where counsel declined to contest an obviously authentic piece of evidence in order to preserve credibility with the jury.

With respect to the second factor, that the stipulation was not based on fact, the prosecution, here conceded that it could not authenticate the bullets it was attempting to admit.(Petition for a Writ of Habeas Corpus, 29, May 25, 2000.) (Petition for a Writ of Habeas Corpus, 29, May 25, 2000.) Despite the concession from the State that it was unable to authenticate a key piece of evidence, defense counsel saw fit to permit the State to introduce it, anyway. Moreover, this stipulation was not made "after a through investigation." Rather, the defense rendered the stipulation after no investigation. When determining if counsel's acts or omissions are constitutionally unreasonable, the Supreme Court has stated that the inquiry should be guided by reference to "counsel's function, as elaborated in prevailing professional norms, is to make the adversarial testing process work in this particular case." Strickland, 466 U.S. at 690. In removing the prosecution's burden of proving the authenticity of its ballistics evidence after

the State had conceded it would be unable to do so, counsel failed to "make the adversarial process work in this articular case." Rather, where the state has conceded that it cannot authenticate a key piece of evidence, surely no reasonable defense attorney would concede the authenticity of that evidence. The Constitution permits a conviction to stand where counsel acquiesced to the admission of a key piece of evidence despite possessing the knowledge that the prosecution could not authenticate it.

In addition to rendering constitutionally unreasonable assistance by stipulating to the authenticity of the state's ballistics evidence, Counsel also was ineffective in failing to investigate alternate defenses. Defense counsel in this case conducted zero investigations into the facts surrounding it, taking at face value everything that the state asserted. For example, after reviewing the ballistics evidence prior to Petitioner's trial, criminalist William Harper concluded that there was no ballistics match between Petitioner's weapon and the bullets removed from Senator Kennedy and victims Weisel and Goldstein. Robert J. Joling and Philip Van Praag, An Open & Shut Case: How a "rush to judgment" led to failed justice in the Robert F. Kennedy Assassination viii (2008). When confronted with this evidence, lead defense counsel, Grant Cooper, did nothing except to continue with his trial strategy of conceding Petitioner's guilt so as to argue diminished capacity. Cooper was again confronted with evidence that the ballistics match that Wolfer and the state claimed matched Petitioner's weapon to bullets recovered from Senator Kennedy and other victims when the prosecution conceded that they could not establish the authenticity of that evidence. Not only did counsel decline to investigate this claim, but he actually made it easier on the state by stipulating to the bullets authenticity. Yet a third example of counsel's failure to consider the alternative defense strategy that Petitioner did not fire the fatal shot is that upon belatedly receiving the autopsy report indicating that Senator Kennedy was shot from behind and that the gun that shot Senator Kennedy was no more than two inches away, defense counsel declined to move for a continuance to investigate and possibly alter his trial strategy.

In 1972, Cooper explained his decision not to investigate as follows:

"I did not retain an independent ballistics expert to analyze the slugs... Had I any feeling that in a case of this importance, Mr. Wolfer either willfully falsified his ballistics analysis or his conclusions I would have hired an independent ballistics expert... Because of my firm belief that Sirhan alone fired the shots and that Mr. Wolfer was testifying correctly under oath I did not have the bullets independently analyzed." Id. At 64

The statement is entirely implausible on its face. Cooper had up to and during the trial at least three objective indicia that Wolfer had either negligently or willfully misstated his conclusions: First, there is Harper's conclusion that no match could be identified between Petitioner's weapon and bullets recovered from the victims; second, there is the state's representation that they were unable to authenticate the bullets offered and accepted into evidence at trial; and third, there is the autopsy report, which, had Cooper read it and followed through, would have shown him not only that the bullet the state admitted as having been removed from Senator Kennedy was not in fact so, but also that it was literally impossible for Petitioner to have shot Senator Kennedy. See § III(c),*infra*. Defense counsel's failure to adequately investigate the possibility of a second shooter goes well beyond his failure to hire an independent ballistics expert. Counsel did not fail to request even the most rudimentary pre-or-in-trial examination of the bullet identification evidence, nor did he proffer any cross-examination of the state's presentation of the ballistics evidence.

In arguing against the allegation of ineffective assistance, below, respondent relied upon the "overwhelming" evidence of Petitioner's guilt, in particular Petitioner's own version of the events implicating him, and the fact that Petitioner's guilt was not undisputed at trial. (Resp. Answer 16-18.) Neither of these are persuasive reasons for denying an ineffective assistance claim here but in fact only reflect role of ineffective assistance of counsel. First, Counsel's failure to dispute Petitioner's guilt at trial is itself one of the specific "acts or omissions" that Petitioner now alleges denied him of his constitutional right to effective assistance. Specifically, as discussed in the proceeding paragraph, Counsel's decision to concede Petitioner's guilt and argue diminished capacity was constitutionally unreasonable because it was not made after proper investigation. It is true that "defense Counsel does not have an obligation to pursue an

alternative, conflicting defense once he reasonably selects the defense to present at trial." Phillips v. Woodford, 267 F.3d 966,979 (9th Cir. 2001). As the Ninth Circuit qualified, however, "the critical words... are' "reasonably selected.'" Id. at 980. In explaining why counsel's choice to focus on an alibi defense was not made after a reasonable investigation into alternatives, the Ninth Circuit wrote that trial Counsel: testified at a state-court evidentiary hearing that he would have presented the alternative defense had he had certain documents in his possession; the state habeas court later made a finding that [Counsel] indeed had that information in his possession at the time of the trial. Moreover, by his own admission,[Counsel] believed Phillip's alibi defense to be an unreasonable one." Id. Similar to counsel's assertion in Woodford that he would have presented the alternative defense if he had certain documents, Grant Cooper stated that if he had "any feeling" that Wolfer's ballistics conclusions were "improper" he would have explored an alternative defense denying Petitioner's quilt. Joling & Van Praag, *supra,* at 64. In addition, just as it was later found that trial counsel in Woodford "indeed had the information in his possession" that he claimed was a precondition to his exploring alternative defenses, so also did Cooper have notice that Wolfer's conclusions were erroneous in the form of Harper's conclusions to that effect, the state's concession that they could not authenticate the ballistics evidence, and the autopsy report revealing both that Petitioner could not have shot Senator Kennedy (see sec. III(c), *infra*) and that the neck bullet removed from Senator Kennedy's neck was not in fact the one presented at trial. Lastly, just as Counsel's failure to investigate an alternative to the alibi defense in Woodford was unreasonable because it was based on counsel's belief that the alibi defense [was} an unreasonable one," so too was Cooper's failure to investigate the possibility of a second shooter unreasonable because it was based on his "firm belief that Sirhan alone fired the shots and that Mr. Wolfer was testifying correctly under oath." Joling & Van Praag, *supra,* at 64.

The state's reliance upon Petitioner's version of events is similarly unpersuasive. In Woodford, the Ninth Circuit found that counsel's performance was constitutionally deficient because counsel had failed to investigate the alibi put forth by his own client, which turned out to be a weak defense and resulted in a conviction. (Woodford, 267 F.3d at 978-979). Thus although

Petitioner's statements may be relevant in assessing the "prejudice" prong of an ineffective assistance claim, simply listening to one's own client is no defense to an accusation of constitutionally inadequate representation.

The cumulative effect of these constitutional errors is that there is not only a reasonable probability that, but for the constitutional violations, the outcome of Petitioner's trial would have been different, but also that it is more likely than not that no reasonable juror would have convicted him in the light of the new evidence and no reasonable jurist would determine that defense counsel provided adequate and effective legal assistance.

C. THE DECISION BELOW CREATES A SPLIT WITH PREVIOUS HOLDINGS IN CASES BEFORE THE U.S. SUPREME COURT ARISING OUT OF MULTIPLE CIRCUIT COURT HOLDINGS

The U.S. Supreme Court, in prior cases involving the denial of an accused's Sixth Amendment rights has frequently tied the ineffective assistance of counsel to knowing prosecutorial collaboration. The facts in this case clearly indicate that the prosecution and the defense were working as a team; this joint prosecution defeats the very purpose of the Sixth and Fourteenth Amendments' protection. Going back to Powell v. Alabama, 287 US 45 (1932) the Court addressed this issue, which rendered the defendants the same as if they had received no representation at all. The Court held that "The right to be heard would be, in many cases, of little avail if it did not comprehend the right to be heard by counsel. Even the intelligent and educated layman has small and sometimes no skill in the science of law... Left without the aid of counsel, he may be put on trial without a proper charge, and convicted upon incompetent evidence, or evidence irrelevant to the issue or otherwise inadmissible. He lacks both the skill and knowledge adequately to prepare his defense, even though he have a perfect one. He requires the guiding hand of counsel at every step in the proceedings against him. Without it, though he be not guilty, he faces the danger of conviction because he does not know how to establish his innocence." This holding was noted in Johnson v. Zerbst 304U.S.,458,304 U.S.462 pg 170(1938).

More recently in Maine v. Moulton 474 U.S. 159(1985) the Supreme Court overturned the conviction of defendant Perley Moulton because it found the collaboration between the state

and the defense conflicted as in the instant case-with defense counsel's obligation to provide an effective defense the court noted that the guarantee of the Sixth Amendment "included the state's affirmative obligation not to act in a manner that circumvents the protections accorded to the accused by invoking that right." (pg.170-174)

The Court went on to state that the state's investigative and prosecutorial powers are limited by the Sixth Amendment "To allow the admission of evidence... in violation of his Sixth Amendment rights... risks evisceration of the Sixth Admendment rights recognized in Massiah." (Referring to Massiah v. United States, 377US 201, 1964 Also Spano v. New York 360US,315,1959).

The decision below, in the instant case, even denying a Certificate of Appealability has created a split with their prior rulings by the Supreme Court in light of the undisputed acts and omissions of defense counsel working in unison with the prosecution.

But the decision has also created an internal split within the Ninth Circuit itself, in Woodford it held that defense counsel's failure to investigate his client's alibi amounted to inadequate representation. In the instant case, conflicted defense counsel conducted no investigation at all concerning the contentions evidence entered at trial.

CONCLUSION

It is hard to conceive of a more blatant, textbook, example of ineffective assistance of Counsel. Defense counsel's acts and omissions in this capitol case- Petitioner is only still with us because the California Legislature abolished the death penalty – ensured that a guilty verdict and a sentence to death was obtained.

Needless to say, the pending indictment against defense counsel cooper went away after his performance.

The Petition for a Writ of Certiorari should be granted.

Dated: July 26, 2016
New York, NY

Respectfully Submitted,

/s/ William F. Pepper
Dr. William F. Pepper, Esq.
Laurie D. Dusek, Esq.
575 Madison Avenue, Suite 1006
New York, NY, 10022
Counsel for Petitioner

Attachment A, Opinions Below

(B)

From: cat_scheduling <ca9_scheduling@ca9.uscourts.gov>
To: wfpintlawoford <wfpintlawoford@aol.com>
Subject: 15-55168 Sirhan Bishar Sirhan v. P. D. Brazelton, et al "Dispositive Order Filed"
Date: Wed, Mar 30, 2016 7:23 pm

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United States Court of Appeals for the Ninth Circuit

Notice of Docket Activity

The following transaction was entered on 03/30/2016 at 4:22:50 PM PDT and filed on 03/30/2016

Case Name: Sirhan Bishar Sirhan v. P. D. Brazelton, et al
Case Number: [redacted]
Document(s): [redacted]

Docket Text:
Filed order (CARLOS T. BEA and MARY H. MURGUIA): The request for a certificate of appealability is denied because appellant has not shown that "jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." Slack v. McDaniel, 529 U.S. 473, 484 (2000); see also 28 U.S.C. § 2253(c)(2); Gonzalez v. Thaler, 132 S. Ct. 641, 648 (2012). Any pending motions are denied as moot. DENIED. [9922035] (AF)

Notice will be electronically mailed to:

Ms. Laurie D. Dusek, Attorney
Mr. Jaime Luis Fuster, Deputy Attorney General
Honorable Beverly Reid O'Connell, District Judge
Doctor William Francis Pepper, Attorney
Mr. Kenneth Norman Sokoler, Deputy Attorney General
USDC, Los Angeles

The following document(s) are associated with this transaction:
Document Description: Main Document
Original Filename: 15-55168.pdf
Electronic Document Stamp:
[STAMP acecfStamp_ID=1106763461 [Date=03/30/2016] [FileNumber=9922035-0]
[2310cc2f9e45744of86386e5dd613e55eee88dd036b2e1b4fbbe86818f3247e3935d8675070a02a5de2b68fda8cb4b0ee508074d4f0a2d4e283e798bb006a0a8]]

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SIRHAN BISHARA SIRHAN, Petitioner - Appellant, v. P. D. BRAZELTON and ATTORNEY GENERAL OF THE STATE OF CALIFORNIA, Respondents - Appellees.	No. 15-55168 D.C. No. 2:00-cv-05686-BRO-AJW Central District of California, Los Angeles ORDER

Before: W. FLETCHER and PAEZ, Circuit Judges.

The motion for reconsideration en banc is denied on behalf of the court. *See* 9th Cir. R. 27-10; 9th Cir. Gen. Ord. 6.11.

No further filings will be entertained in this closed case.

DENIED.