S267391

IN THE SUPREME COURT

OF THE STATE OF CALIFORNIA

	)	No.
	)	
	)	DCA No. B301638
	)	
	)	
IN RE JASMINE JENKINS,	)	Superior Court
	)	(Los Angeles)
On habeas corpus.	)	No. BA467828
_____	)	

PETITION FOR REVIEW

APPEAL FROM THE JUDGMENT OF THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA, LOS ANGELES COUNTY

Honorable Lisa B. Lench, Judge

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TO: THE HONORABLE TANI CANTIL-SAKAUYE, CHIEF JUSTICE, AND TO THE HONORABLE ASSOCIATE JUSTICES OF THE CALIFORNIA SUPREME COURT:

Appellant and petitioner Jasmine Jenkins seeks review by this Court following an unpublished decision of the Court of Appeal, Second Appellate District, Division One, filed on January 22, 2021, affirming her conviction and discharging the order to show cause, a copy of which is attached to this Petition as an Appendix. As set forth below, review is necessary to secure uniformity of decision and to settle important questions of law. (See Cal. Rules of Court, rule 8.500(b)(1).)

QUESTIONS PRESENTED

1) Did the prosecutor suppress material exculpatory evidence, in violation of petitioner's Fourteenth Amendment rights, by failing to disclose the charged victim's prior convictions for three violent felonies?

2) Did the prosecutor suppress material exculpatory evidence, in violation of petitioner's Fourteenth Amendment rights, by failing to disclose the state's key witness's prior convictions for three violent felonies?

3) May the Attorney General's office, when defending against a *Brady* claim that the prosecutor suppressed material exculpatory evidence, suppress that same material exculpatory evidence?

4) Did trial counsel's failure to uncover or introduce evidence of the Williams sisters' prior convictions deprive petitioner of her Sixth Amendment right to ineffective assistance of counsel?

5) Did the prejudice from the errors identified in the habeas and direct appeal cumulate to deprive petitioner of her Fourteenth Amendment rights to due process and a fair trial?

REASONS FOR REVIEW

Petitioner discovered that the prosecutor failed to disclose evidence that her own office had successfully prosecuted the charged victim, Brittneeh Williams, in this self-defense case with three violent felonies. Petitioner also discovered that the prosecutor failed to disclose that the charged victim's sister, Sade Williams -- who was the state's key witness at trial -- had also been convicted of three violent felonies in that same case, instead telling defense counsel that Sade had been arrested but never charged.

Petitioner's evidence that the Williams sisters were convicted of three violent felonies stemmed from a Court of Appeal opinion obtained from LexisNexis showing that two sisters with the same first names and last initial as Brittneeh and Sade Williams were convicted of brutally assaulting three women on Halloween of 2006. (See Exh. B, Attachment B to Petition for Writ of Habeas Corpus.)[1] Petitioner's additional evidence was the prosecutor's own *Brady* disclosure, which indicated that Sade Williams had been arrested on identical charges on Halloween of 2006, but falsely claimed that "no . . . charges [were] filed" in that case. (See Exh. B, Attachment A.) Finally, petitioner attached a news article about the prior attack in which the sisters are identified as Brittneeh and Sade Williams. (Exh. A to the Traverse.)

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[1] Unless otherwise indicated, all references to exhibits are to those attached to the habeas petition.

At every turn in this case, the Attorney General's office refused to confirm or deny whether the Williams sisters were the defendants in that prior case. This, even though the Attorney General represented the state in that prior case, and even though the specific deputy who handled that case still works down the hall from the specific deputy handling this case.

Rather than admit that this evidence was not disclosed -- or simply disclosing the evidence itself -- the Attorney General denounced petitioner's evidence as "nothing but an apparent printout of an unspecified and unverified Internet source . . . ." (See Informal Response, p. 15; Return, p. 15.) Petitioner asked the Court of Appeal to issue an order to show cause given that, pursuant to this Court's jurisprudence, such an order would prevent the Attorney General from continuing to play dumb. The appellate court did so, yet the Attorney General simply proceeded to file an unverified return, failed to admit or deny any of petitioner's specific factual allegations, and continued to litigate the case as if petitioner had manufactured the evidence out of whole cloth.

The Attorney General's approach paid off. The Court of Appeal eventually found that the Williams sisters' prior case was not material, yet its analysis was colored in no small part by the state's refusal to play by the rules. Indeed, the Court of Appeal commented that the Attorney General's argument that petitioner failed to establish the identity of the Williams sisters as the defendants in that case was "a fair point . . . ." (See Appendix 11, fn. 1.)

Review is appropriate to determine the legal and ethical obligations of the Attorney General to disclose material exculpatory evidence that it has in its possession. The Supreme Court has remarked in dicta that the prosecution's *Brady* obligations may be less onerous post-conviction. But neither that Court nor any other has ever approved the wholesale willful suppression of exculpatory evidence and potential misrepresentations engaged in here. Given the fundamental threat to due process and faith in the criminal justice system posed by such behavior, this Court should announce the specific contours of the Attorney General's *Brady* obligations before such conduct becomes the norm.

Moreover, review is appropriate as to the merits of petitioner's *Brady* claims in this incredibly close case. Prior to trial, defense counsel made clear to the court that petitioner was advancing a claim of self-defense and that he planned to introduce evidence of Brittneeh's prior acts of violence pursuant to Evidence Code section 1103. Given that the prosecutor never informed him that her own office convicted Brittneeh of three violent felonies, however, this character evidence consisted solely of petitioner's testimony that Brittneeh assaulted her three times over the years. The prosecutor disparaged the import of this evidence in closing arguments, telling the jury that petitioner had shown only that "these girls have been fighting for years," and that petitioner faced the threat only "having her hair pulled" or "a fistfight" and thus could not use deadly force in self-defense. (6 RT 1888, 1903-1904.) The prosecutor could not have made such

claims had jurors heard that Brittneeh and others brutally attacked three women for no reason, leaving them with crooked noses, concussions, and various other serious injuries.

And the same is true as to the prosecutor's misleading disclosure as to Sade Williams. Trial counsel has declared that the prosecutor's statement that no charges were filed baited him into not pursuing the matter further. Had counsel known the truth, he would have ensured the jury heard it, particularly when Sade testified with great emotion that her sister had never been a bully. Given Sade's central importance to the state's case -- and given that the key portion of the case on which the Court of Appeal's materiality analysis rests has been explicitly disapproved of by the Supreme Court -- review is appropriate.

Finally, review is appropriate as to petitioner's alternative claims -- that trial counsel rendered ineffective assistance in failing to uncover and introduce evidence of the Williams sisters' crimes, and the prejudice from the errors identified in the direct appeal and habeas cumulated to deprive petitioner of her rights to due process and a fair trial. Because these issues, too, involve fundamental federal constitutional rights and important and recurring questions of law, review is appropriate.

STATEMENT OF THE CASE

Petitioner adopts the procedural statement in the appellate court's opinion for the purposes of this petition. (See Appendix 4-5.)

STATEMENT OF FACTS

For purposes of this petition only, petitioner adopts the Statement of Facts set forth in the appellate court's opinion. (See Appendix 2-5.)

ARGUMENT

I. REVIEW IS APPROPRIATE BECAUSE THE PROSECUTOR VIOLATED DUE PROCESS BY SUPPRESSING MATERIAL EXCULPATORY EVIDENCE OF BRITTNEEH'S PRIOR ATTACK ON THREE WOMEN.

This was a self-defense case. There was no dispute as to who inflicted Brittneeh's injuries that night. The only question for the jury to answer was whether petitioner acted in lawful self-defense.

Given this, defense counsel sought to admit evidence of Brittneeh's character for violence pursuant to Evidence Code section 1103. (See 2 RT 26-28; see also Exh. B [Blacknell Declaration] at paras. 3-4, 15) Counsel eventually introduced every instance he knew about, but this was limited to the three incidents where Brittneeh previously attacked petitioner. (See, e.g., 5 RT 1646-1649; Exh. B at para. 15.)

In her closing argument, the prosecutor acknowledged the prior incidents but claimed it was unclear who started or won the prior fights. (See, e.g., 6 R 1927-1928.) According to the prosecutor, all the defense showed was that "[t]hese women have been fighting for years." (6 RT 1928.) The prosecutor painted the dangers petitioner faced from Brittneeh's attack that night as nothing more than "having her hair pulled" or a "fistfight," and thus argued petitioner could not use deadly force in self-defense. (See, e.g., 6 RT 1888, 1903-1904.)

However, post-conviction investigation revealed that

Brittneeh had previously been convicted in Los Angeles County of three counts of aggravated assault with great bodily injury and hate crime enhancements following a brutal, unprovoked attack on three women. (See Exh. B, Attachment B, pp. 1-30.) The prosecutor never told defense counsel about Brittneeh's past assault. (Exh. B at paras. 12-13.) Not surprisingly, given that it fit perfectly with his theory of the case, trial counsel also declared that he would have introduced this evidence had the prosecutor told him about it. (Exh. B at para. 15.)

In her petition, petitioner alleged that the prosecutor suppressed exculpatory evidence -- in violation of *Brady v. Maryland* (1963) 373 U.S. 83 -- by failing to notify trial counsel of Brittneeh's prior case, which her own office had prosecuted. (See Petition, Claim I, pp. 8-17; Memo, Argument I, pp. 25-33.) petitioner alleged that, because this evidence went directly to her self-defense claim by showing the danger she faced that night was far greater than merely having her hair pulled, there was a reasonable probability that at least one juror would have voted to acquit and the evidence was thus material. (Petition, pp. 8, 16-17; Memo, pp. 29-33.)

The Court of Appeal rejected petitioner's claims. (See Appendix 12-14.) According to the court, it was unclear whether Brittneeh Williams was the Brit. W. referred to in the petition. (See Appendix 11, fn. 1, 13.) Moreover, the court found that the suppressed evidence was not material given that the jury had heard that, more recently, Brittneeh had assaulted petitioner herself. (Appendix 14.) Review is appropriate.

The Due Process Clause requires the prosecution to disclose all material evidence favorable to an accused within the actual or constructive knowledge or possession of the prosecution team. (See *Brady v. Maryland* (1963) 373 U.S. 83, 87.) Where a defendant is convicted at a trial in which material evidence has been suppressed by the state, due process has been violated and a writ must be granted without a further showing of prejudice. (*Kyles v. Whitley* (1995) 514 U.S. 419, 435-436.)

Here, the state failed to disclose evidence regarding Brittneeh's prior assault to defense counsel. (Exh. B [Blacknell Declaration] at paras. 11-13.) Given that the prosecutor's own office prosecuted Brittneeh, the evidence of Brittneeh's prior assault was clearly within the actual or constructive knowledge or possession of the prosecution team.

This evidence was favorable. Petitioner advanced a claim of self-defense. In such cases, a defendant may introduce evidence pursuant to Evidence Code section 1103 -- including specific instances -- of the alleged victim's character for violence. Evidence that Brittneeh brutally attacked three women in the past was admissible pursuant to this section, and thus was favorable to petitioner's defense. The evidence was also directly relevant to the jury's self-defense analysis. (See CALCRIM No. 505 [if jury finds decedent "threatened or harmed . . . others in the past, you may consider that information in deciding whether the defendant's conduct and beliefs were reasonable."].)

And the evidence was material. Establishing that evidence is requires a showing that there is a "reasonable probability" of a

different result had the evidence been disclosed, which is "shown when the government's evidentiary suppression undermines confidence in the outcome of the trial." (*Kyles v. Whitley*, *supra*, 514 U.S. at p. 434.) If there is a "reasonable probability" that *a single juror* would have voted to acquit after hearing the suppressed evidence, reversal is required. (See *Kyles v. Whitley*, *supra*, 514 U.S. at p. 434 [materiality test identical to prejudice test in *Strickland v. Washington* (1984) 466 U.S. 668]; *Wiggins v. Smith* (2003) 539 U.S. 510, 537 [relief required under *Strickland* where absent the error one juror could have reached a different verdict].) That showing was made here.

At trial, petitioner introduced evidence of Brittneeh's character for violence pursuant to Evidence Code section 1103. (See, e.g., 5 RT 1646-1649.) But this evidence consisted of merely the three instances in which Brittneeh previously attacked her. (*Ibid*.) Evidence of what Brittneeh did to the three women in the prior case showed Brittneeh's character for violence much more clearly than what defense counsel was able to muster in this case. Defense counsel declared as much. (Exh. B at para. 15.)

The jury weighing petitioner's claim of self-defense never heard that, contrary to the prosecutor's reductive closing argument, petitioner faced much more than "having her hair pulled" or a "fistfight" when Brittneeh attacked her. (6 RT 1888.) The jury never heard that, like the victims in that prior case, she faced a brutal beating, unconsciousness, or a concussion. (See Exh. B, Attachment B at pp. 3-4, 7.) The prosecutor's suppression ensured that the jury never heard any of this evidence and thus

never received the full picture of the dangers petitioner faced that night.

However, even without this evidence, this was an incredibly close case. The jury here deliberated for 9.5 hours. (1 CT 168-169, 173-174.) The jury asked for a readback of testimony. (1 CT 171.) The jury then unanimously acquitted petitioner of the greater offense charged in count 1. (2 CT 196.) Each of these objective indicia have long been held to demonstrate a close case. (*People v. Epps* (1981) 122 Cal.App.3d 691, 698 [refusal to convict on all charges shows close case]; *People v. Thompkins* (1987) 195 Cal.3d 244, 251-252 [request for readback shows close case]; *People v. Williams* (1971) 22 Cal.App.3d 34, 40-41 [same]; *People v. Woodard* (1979) 23 Cal.3d 329, 341 [deliberations under six hours demonstrate close case].)

On this record, there is much more than a "reasonable probability" that a single juror would have voted to acquit after hearing the evidence detailing Brittneeh's brutal assault. Review is appropriate to remedy this violation of Petitioner's Fourteenth Amendment rights to due process.

II. REVIEW IS APPROPRIATE BECAUSE THE PROSECUTOR VIOLATED DUE PROCESS BY SUPPRESSING MATERIAL EXCULPATORY EVIDENCE OF SADE'S PRIOR ATTACK ON THREE WOMEN.

Trial counsel asked Sade whether, as petitioner testified (see 5 RT 1651), Brittneeh was known as BDB, which stood for Brittneeh Da Bully. (3 RT 1037.) Sade testified that BDB in fact stood for Bitty B to reflect her small size. (3 RT 1037-1038.) The first question the prosecutor asked Sade on redirect was whether Brittneeh was in fact a bully. (3 RT 1038.) Sade told petitioner's jury that Brittneeh was not a bully and had never acted like a bully. (*Ibid*.)

Sade also claimed to have seen Brittneeh get stabbed as Sade pulled into the gas station, while Kayuan Mitchell was standing near petitioner. (See 3 RT 986-989.) The prosecutor, citing Sade's testimony, told the jury that Brittneeh was stabbed two separate times, first when her "bodyguard, . . . her protector" Mitchell was standing right next to her (6 RT 1901) and again when Brittneeh charged petitioner on video (6 RT 1902-1903.) The jury in deliberations then asked for a readback of that portion of Sade's testimony. (1 CT 171.)

Put simply, Sade was critical to the state's two-stabbing theory and critical to the state's portrayal of Brittneeh as a non-violent person. Conversely, undermining Sade's credibility was key to the defense thesis that there were not two separate stabbings and petitioner lawfully defended herself against Brittneeh's violent attack, which was caught on video.

Prior to trial, the prosecutor emailed trial counsel her *Brady* disclosure for Sade, explaining that:

> [A]ll witness RAP's have been run. Here is the [moral turpitude] from RAP of Sade Williams:
>
> Juvenile arrest -- 10/31/06 arrest for PC 212.5(c), PC 245(a)(1), PC 422.7(a), PC 242 with Long Beach PD -- no dispo stated or charges filed
>
> 12/21/07 arrest for PC 487(B)(3) with Lakewood PD; convicted Pc 487(a) on 2/25/08, case number 8BF00075; 03/07/13 conviction set aside and dismissal granted PC 1203.4

(Exh. B, Attachment A.)

However, as noted above, it turns out that charges were in fact filed -- and a petition was indeed sustained -- against Sade in that case after she, Brittneeh, and others brutally assaulted three women for no reason. (See Exh. B, Attachment B.) Trial counsel, upon learning of that case, declared that he would have "impeached [Sade] with her conduct as prior crimes of moral turpitude." (Exh. B [Blacknell Declaration] at para. 14.) Counsel went further, explaining that "after Sade testified with great emotion that her sister was not violent and not a bully, I would have relished showing the jury that she in fact knew her sister was violent and a bully since they had previously committed violent acts together." (*Ibid*.)

In her petition, petitioner alleged that the prosecutor

suppressed favorable evidence within the meaning of *Brady v. Maryland*, *supra*, 373 U.S. 83 by failing to tell trial counsel that her own office had successfully prosecuted Sade for three counts of aggravated assault and great bodily injury and hate crime enhancements. (Petition, Claim II, pp. 18-22; Memo, Argument II, pp. 34-40.) Petitioner alleged that, because Sade's testimony was the linchpin of the state's two-stabbing theory, and because this evidence would have allowed trial counsel to impeach Sade generally with prior crimes of moral turpitude -- and would have allowed counsel to show that Sade lied to the jury about Brittneeh's supposed non-violent nature -- the evidence was material in that at least one juror would have voted to acquit after hearing this evidence. (Petition, pp. 21-22; Memo, pp. 36-40.)

The Court of Appeal rejected petitioner's claims. (Appendix 11-14.) Again, the court believed the Attorney General's claim that petitioner failed to establish Sade's identity as one of the defendants was "a fair point". (Appendix 11, fn. 1.) And, because this evidence merely went to impeachment -- and because some of Sade's testimony was corroborated by a nine year old's testimony -- the evidence was not material. (Appendix 14.) Review is appropriate.

Here again, the Due Process Clause requires the prosecution to disclose all material evidence favorable to an accused within the actual or constructive knowledge or possession of the prosecution team. (*Brady v. Maryland*, *supra*, 373 U.S. at p. 87.) Importantly, this requires disclosure of evidence relating

to the credibility of a material witness. (See, e.g., *Wearry v. Cain* (2016) ___U.S.___ [136 S.Ct. 1002, 1006]; *Smith v. Cain* (2012) 565 U.S. 73, 76; *Banks v. Dretke* (2004) 540 U.S. 668, 701.)

The prosecutor suppressed favorable evidence when she falsely assured defense counsel that "no . . . charges [were] filed." (Exh. B, Attachment A.) Contrary to the prosecutor's written statements, her office *did* file charges in that case. (See Exh. B, Attachment B at p. 1.) Her office then saw the juvenile court sustain a petition against Sade for three counts of aggravated assault, along with hate crime and bodily injury enhancements. (Exh. B, Attachment B at pp. 1-2.)

This evidence was material. Sade's testimony was essential to the prosecutor's two-stabbing theory. Had the jury heard grounds to doubt Sade's credibility based on what she and her sister did to three women on Halloween, the prosecutor's flimsy two-stabbing theory would have crumbled. (See, e.g., *People v. Lee* (1994) 28 Cal.App.4th 1724, 1740 [witness may be impeached with moral turpitude conduct committed as a juvenile]; *People v. Elwell* (1988) 206 Cal.App.3d 171, 177 [aggravated assault is a crime of moral turpitude].)

Moreover, Sade here told the jury -- "with great emotion" -- that Brittneeh was not a bully. (3 RT 1037-1038; Exh. B at para. 14.) This was patently untrue. And the events of Halloween show that Sade knew it was untrue. (See Exh. B, Attachment B at p. 5.) Defense counsel has declared that he would have "relished" the opportunity to prove Sade lied to the jury on this point. (Exh. B at para. 14.) The prosecutor's suppression ensured

defense counsel never had the chance.

Additionally, the prosecutor relied extensively on Sade's testimony in urging the jury to reject petitioner's defense. (See, e.g., 6 RT 1899-1903.) The prosecutor's extensive reliance on Sade's testimony shows how much it mattered to the state's case. (See *People v. Powell* (1967) 67 Cal.2d 32, 55-57 [prosecutor's reliance on evidence in final argument reveals how important the prosecutor "and so presumably the jury" considered the evidence]; *People v. Cruz* (1964) 61 Cal.2d 861, 868 [same]. Accord *United States v. Kojayan* (9th Cir. 1993) 8 F.3d 1315, 1323 ["closing argument matters; statements from the prosecutor matter a great deal"]; *Chapman v. California* (1967) 386 U.S. 18, 24 ["one need only glance at the prosecutorial comments" to see prejudice].)

Further, the jury's only question shows how important Sade was to the jury as well. The jury here asked for a readback of Sade's testimony as to "what she saw with regards to the stabbing as she approached or entered the gas station." (1 CT 171.) The jury's request show how key Sade was to the jury's resolution of the starkly different narratives presented in this case. (See *People v. Filson* (1994) 22 Cal.App.4th 1841, 1852 [jury's request for additional information on a particular point shows that the jury is "troubled" by the point].)

The fact that the jury asked to hear Sade's testimony read back, rather than Abigail on whom the Court of Appeal relied (see Appendix 14) should come as no surprise. Abigail's testimony appeared to confuse Mitchell for appellant, claimed petitioner pushed Brittneeh to the bus stop and, once there, stabbed her in

the stomach and head. (See 3 RT 941-943, 955-956.) Here again, the video shows *Mitchell* pushing Brittneeh to the bus stop, and the only stabbing occur once Brittneeh charges and begins hitting petitioner. (See People's Exh. 4, file 3 at 00:05-00:24.)

Moreover, the Court of Appeal relied on *United States v. Augurs* (1976) 427 U.S. 97, 113-114 for the proposition that this evidence was not material because it merely went to impeachment. (See Appendix 14.) The appellate court's reliance on *Augurs* was misplaced. The Supreme Court's decision in that case rested on two analytic distinctions -- that (1) there is a difference for purposes of *Brady* between exculpatory and impeachment evidence, and (2) there are different materiality tests for "specific requests" as opposed to "general or no request" by the defense. (See *United States v. Augurs*, *supra*, 427 U.S. at pp. 103-107.) Both of these analytic distinctions were disavowed by the Supreme Court 35 years ago. (See *United States v. Bagley* (1985) 473 U.S. 667, 676, 682.)

Finally, once again the jury here deliberated extensively before acquitting petitioner of the greater offense. (1 CT 168-169, 173-174; 2 CT 196.) The jury's deliberations demonstrate the closeness of the case against petitioner.

Given the closeness of the case, and the importance of Sade's testimony to the state's case and to the jury, there is much more than a "reasonable probability" that a single juror would have voted to acquit after hearing how Sade and Brittneeh savagely beat three women together. Review is appropriate to remedy this violation of petitioner's Fourteenth Amendment

rights to due process.

III. REVIEW IS APPROPRIATE BECAUSE THE ATTORNEY GENERAL INDEPENDENTLY VIOLATED DUE PROCESS BY SUPPRESSING THE VERY EVIDENCE THAT FORMED THE BASIS OF PETITIONER'S *BRADY* CLAIM.

As noted above, petitioner filed a verified petition for writ of habeas corpus alleging that the prosecutor suppressed material exculpatory evidence regarding the Williams sisters' prior convictions. In support of her allegations, petitioner attached as an exhibit, inter alia, a printout of the Court of Appeal's opinion affirming the Williams sisters' convictions obtained from LexisNexis. (See Exh. B, Attachment B.) That opinion shows the state was represented in that case by deputy attorney general David Glassman. (*Ibid.*) David Glassman still works in the Los Angeles Division of the Attorney General's office.[2]

In its informal response, the Attorney General refused to say whether that case involved the Williams sisters. (See Response, pp. 7, 15.) The state denounced the Court of Appeal's opinion as nothing more than "an apparent printout of an unspecified and unverified Internet source . . . ." (Response, p. 15.) According to the Attorney General, the Court of Appeal's opinion was not "competent evidence." (Response, 7, 15, 21.)

Petitioner asked the Court of Appeal to issue an order to show cause so that the Attorney General would be forced to stop playing games and admit or deny her allegations under penalty of

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[2] http://members.calbar.ca.gov/fal/Licensee/Detail/115664 (Last visited February 28, 2021.)

perjury. (Reply to Informal Response, 7, 13-14.) The appellate court did so. The games, however, continued.

Although the Penal Code requires a formal return to be verified under penalty of perjury (see Pen Code, § 1478), respondent filed an unverified return. (See Return, 7-8.) And although this Court has made clear that in its formal return the Attorney General must specifically admit or deny each allegation -- or explain why after engaging in due diligence there is a good reason to dispute certain allegations (*People v. Duvall* (1995) 9 Cal.4th 464, 485) -- the Attorney General simply offered a conclusory general denial of all of petitioner's allegations. (See Return, 7-8.) Thereafter, the Attorney General continued to dispute the authenticity of petitioner's exhibits, and continued to imply that the Court of Appeal's decision -- if it were in fact real at all -- involved two other sisters with remarkably similar names and criminal histories. (See, e.g., Return, 9, 15, 22.)

The United States Supreme Court has stated in dicta that the prosecution's *Brady* obligations may be less onerous post-trial than pretrial, given that defendant had already presumably received a fair trial. (See *DA's Office v. Osborne* (2009) 557 U.S. 52, 68-69.) Yet the Court has never countenanced the knowing suppression of material evidence that forms the basis of a post-conviction *Brady* claim. To petitioner's knowledge, this Court has not addressed the question. It should do so now.

The prosecutor's violation of *Brady* rendered petitioner's trial fundamentally unfair. And the Attorney General's continued suppression of that evidence -- and the extent to which

it violated this Court's directive in *Duvall* and its obligations under the Penal Code in order to maintain the charade -- ensured that the process remained equally unfair post-conviction. Review is appropriate to remedy this violation of petitioner's Fourteenth Amendment rights to due process, a fair trial, and a fair appeal.

IV. REVIEW IS APPROPRIATE BECAUSE TRIAL COUNSEL RENDERED INEFFECTIVE ASSISTANCE, IN VIOLATION OF PETITIONER'S SIXTH AND FOURTEENTH AMENDMENT RIGHTS, BY FAILING TO UNCOVER AND INTRODUCE EVIDENCE OF THE WILLIAMS SISTERS' PRIOR CRIMES.

As noted, the prosecutor never disclosed Brittneeh's prior convictions for three violent felonies. And as to Sade, the prosecutor told him of Sade's arrest in that case but falsely assured him that "no . . . charges [were] filed." (See Exh. B, Attachment A.) Petitioner's jury thus never heard that Brittneeh and Sade were both convicted for brutally assaulting three women, and instead heard Sade testify that Brittneeh was not a bully and had never acted like a bully. (See 3 RT 1038.)

Defense counsel declared that he never knew Brittneeh and Sade were both convicted of three violent felonies. (Exh. B at paras. 12-13.) Counsel would have introduced this evidence as to Brittneeh pursuant to Evidence Code section 1103, just as he did with respect to the prior instances of violence he knew about. (*Id.* at para. 15.) And as to Sade, counsel would have used this evidence for impeachment purposes to show that Sade was untrustworthy generally and had lied to the jury about Brittneeh's character for violence specifically. (*Id.* at para. 14.)

In her petition, petitioner argued alternatively that, to the extent there was no *Brady* violation, defense counsel rendered ineffective assistance in violation of her Sixth and Fourteenth Amendment rights by failing to uncover and introduce this evidence. (Petition, Claims IV-V.) Petitioner explained that

counsel admitted he had no tactical reason for failing to do so. (*Ibid*.) And petitioner argued that for all the reasons this evidence was material under the *Brady* analysis, it was prejudicial under the identical prejudice test for ineffective assistance of counsel claims. (*Ibid*.)

The Court of Appeal impliedly rejected petitioner's alternative ineffective assistance claims without comment, given that it found the evidence was not material under *Brady*. (See Appendix 13-14.) Review is appropriate.

The United States constitution guarantees defendants in criminal cases the right to assistance of competent counsel. (See U.S. Const., 6th Amend.; *Corenevsky v. Superior Court* (1984) 36 Cal.3d 307, 319.) To prevail on a claim of ineffective assistance of counsel, a defendant must show that (1) counsel's representation fell below an objective standard of reasonableness, and (2) but for counsel's errors there is a "reasonable probability" that the result of the proceeding would have been different. (*Strickland v. Washington* (1984) 466 U.S. 668, 693.)

Here, defense counsel declared that he had no tactical reason for failing to introduce evidence of the Williams sisters' prior convictions given how perfect it fit his theory of the case. (See Exh. B at para. 13.) To the extent the blame rests on trial counsel instead of the prosecutor, counsel's conduct fell below the objective standard of care. And for all the reasons set forth in Arguments I and II, *supra*, there is a reasonable probability that at least one juror would have voted to acquit after hearing of the Williams sisters' prior crimes. Review is appropriate to remedy

this violation of petitioner's Sixth and Fourteenth Amendment rights to effective assistance of counsel.

V. REVIEW IS APPROPRIATE BECAUSE THE PREJUDICE FROM THE CUMULATION OF THE ERRORS IDENTIFIED IN THE DIRECT APPEAL AND HABEAS DEPRIVED PETITIONER OF HER FOURTEENTH AMENDMENT RIGHTS TO DUE PROCESS AND A FAIR TRIAL.

On appeal, petitioner argued that the prejudice from the errors cumulated to deprive her of her Fourteenth Amendment rights to due process and a fair trial. (AOB 79-80.) And in her petition, petitioner added the prejudice from the errors identified in the petition as well. (Petition Claim VI.)

The Court of Appeal impliedly rejected petitioner's claims after finding no error in the first instance. (See Appendix 1-14.) Review is appropriate.

"[A] series of trial errors, though independently harmless, may in some circumstances rise by accretion to the level of reversible and prejudicial error." (*People v. Hill* (1998) 17 Cal.4th 800, 844.) Such cumulative error impacts a defendant's federal constitutional rights to due process. (See, e.g., *Thomas v. Hubbard* (9th Cir. 2001) 273 F.3d 1164, 1179 [cumulative effect of three significant trial errors "so infected the trial with unfairness as to make the resulting conviction a denial of due process . . . ."]; *Mak v. Blodgett* (9th Cir. 1992) 970 F.2d 614, 622 [collecting cases]; *Chambers v. Mississippi* (1973) 410 U.S. 284, 298, 302-303.)

In this case, the trial court kept key defense evidence from the jury's view at the request of the prosecutor. The prosecutor filled this evidentiary vacuum with a razor-thin theory of

separate stabbings. The trial court then failed to instruct the jury that it must unanimously agree as to which alleged act constituted the charged crime. And, to make matters worse, the prosecutor never told trial counsel that Brittneeh and Sade had each been convicted of three violent felonies after brutally assaulting three women for utterly no reason.

Even if each of these errors is harmless when considered separately, taken together they deprived petitioner of a fair trial. Review is appropriate to remedy this violation of petitioner's Fourteenth Amendment rights to due process and a fair trial.

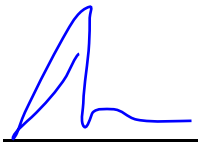
CONCLUSION

For all the reasons set forth above, review is appropriate.

Dated: March 2, 2021.

Respectfully submitted,

RUDOLPH J. ALEJO

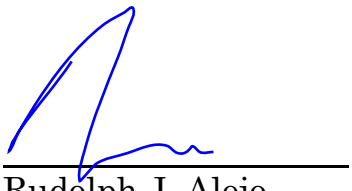


By: Rudolph J. Alejo
Attorney for Petitioner
Jasmine Jenkins

CERTIFICATE OF COMPLIANCE

I certify that the accompanying brief is 1.5-spaced, that a 13-point proportional font was used, and that there are 5,212 words in the brief.

Dated: March 2, 2021.



Rudolph J. Alejo

APPENDIX

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE, Plaintiff and Respondent, v. JASMINE JENKINS, Defendant and Appellant.	B294747 (Los Angeles County Super. Ct. No. BA467828)
In re JASMINE JENKINS on Habeas Corpus.	B301638 (Los Angles County Super. Ct. No. BA467828)

APPEAL from judgments of the Superior Court of Los Angeles County, Lisa B. Lench, Judge. Affirmed.

Rudolph J. Alejo, under appointment by the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Lance E. Winters, Chief Assistant Attorney General, Susan Sullivan Pithey, Assistant Attorney General, Zee Rodriguez and Paul S. Thies, Deputy Attorneys General, for Plaintiff and Respondent.

Jasmine Jenkins appeals from her conviction for manslaughter, contending the trial court made instructional and evidentiary errors, and the prosecutor committed misconduct. We affirm. Jenkins also petitions for a writ of habeas corpus on the ground that the prosecution failed its obligation to provide the defense with material exculpatory evidence. We issued an order to show cause (OSC) on the issue, and now deny the petition and discharge the OSC.

BACKGROUND

In the evening of January 19, 2018, Brittneeh Williams drove to Jenkins's apartment with Kassadi, Williams's young daughter, to allow Kassadi to visit her father, Kayuan Mitchell, Jenkins's current boyfriend. At the apartment, Williams and Mitchell got into a fight that resulted in Mitchell beating Williams and causing her to bleed from her forehead.

Jenkins arrived in her car, her young son by Mitchell in the backseat, and taunted Williams. Mitchell got in Jenkins's car and they drove away, but Williams, who had by now called her sister, Sade Williams, put Kassadi in the backseat and gave chase.

Being chased by Williams, who was driving erratically, Mitchell instructed Jenkins to pull into a gas station. Williams also pulled in, left her car to come over to Jenkins's car, and shouted at the other woman and possibly punched her through the open window. Mitchell exited Jenkins's car and tried to restrain Williams, but had difficulty doing so, in part because Jenkins continued to taunt Williams from her car.

After back and forth scuffles between Mitchell and Williams, Jenkins exited her car with a large kitchen knife and stabbed Williams three times, killing her just as Sade Williams arrived.

Before trial, Jenkins's counsel moved to admit hearsay statements made by Mitchell to police about the events at the gas station. The trial court provisionally denied the motion, but noted Jenkins could renew it during trial. Jenkins's counsel never renewed the motion.

At trial, Ajay Panchal, a deputy medical examiner for the Los Angeles County Coroner, testified that Williams suffered three stab wounds to her chest and abdomen, any one of which would have been fatal. Panchal opined that a person suffering these injuries could still stand up and run for a very short period of time.

The prosecution presented three security camera video recordings depicting the fight. Collectively, they revealed that the skirmish outside Jenkins's car between Williams on one side and Jenkins and Mitchell on the other lasted about a minute. It involved three discrete encounters between Jenkins and Williams, the first two occurring at the gas pumps and the last at a bus stop on the sidewalk. In the first, Williams was thrown violently to the ground by Mitchell, presumably to keep her away

from Jenkins. In the second, Williams popped up and charged Jenkins and attacked her, but was driven off and held by Mitchell at the bus stop. In the third encounter, as Williams was being restrained by Mitchell at the bus stop, Jenkins approached and attacked her. The poor quality and limited coverage of the videos makes it impossible to see when the stabbing occurred.

Sade Williams testified that Jenkins stabbed her sister while Mitchell held her in a bear hug.

A.V., a 10-year-old who was with her mother at the bus stop, testified that Jenkins followed Williams to the bus stop, took a six-inch knife from her back pocket, said, "This is gonna be real scary," and stabbed Williams. A.V. testified that Jenkins was smiling and angry, "like a psychopath."

Jenkins testified that when she exited her car and approached Williams, the other woman charged and started hitting her. In response, Jenkins waived her knife at Williams and backed up to get away, but then fell, with Williams falling on top of her. Jenkins testified variously that she stabbed Williams only once, stabbed her three times, and had no idea that she had stabbed her.

The prosecution argued Jenkins stabbed Williams during the first and possibly third encounters, but not the second. The defense theorized that Jenkins stabbed Williams only during the second encounter, to defend herself from the latter's attack.

A jury acquitted Jenkins of murder but convicted her of voluntary manslaughter, and the court sentenced her to 11 years in prison.

Jenkins appeals. She also petitions for a writ of habeas corpus on the ground that the prosecution failed to disclose before trial that in 2006 both Brittneeh and Sade Williams were

adjudicated in juvenile proceedings to have assaulted three women.

DISCUSSION

I. Appeal

Jenkins contends the trial court erred in excluding Mitchell's hearsay statements to police about the fight and in failing to give a unanimity instruction, and the prosecutor committed prejudicial misconduct.

A. Mitchell's Hearsay Statements were Inadmissible

Mitchell refused to testify, but in a statement to police he described Williams as the primary aggressor in the fight with Jenkins. The trial court excluded the statement as inadmissible hearsay. Jenkins contends the court erred in excluding Mitchell's story because it constituted a statement against penal interest, which renders the hearsay admissible. We disagree.

Hearsay evidence is a statement made by a witness not testifying at the hearing and offered to prove the truth of the matter asserted. (Evid. Code, § 1200, subd. (a).) Hearsay is inadmissible unless an exception applies. (Evid. Code, § 1200, subd. (b).)

"Evidence of a statement . . . is not made inadmissible by the hearsay rule if the declarant is unavailable as a witness and the statement, when made, . . . so far subjected him to the risk of . . . criminal liability . . . that a reasonable man in his position would not have made the statement unless he believed it to be true." (Evid. Code, § 1230.)

We review a decision to admit or exclude evidence under the reasonable probability standard for prejudice. (*People v.*

Watson (1956) 46 Cal.2d 818, 836; *People v. Trujeque* (2015) 61 Cal.4th 227, 280.)

Because the issue here is whether Mitchell's statement subjected him to the risk of criminal liability, we will focus on the arguably inculpatory portions.

Mitchell told police the following: "I am trying to see what Brittneeh is doing. I'm talking to her. She's going off. . . . But I am trying to distract her so Jas can pull out of the driveway."

"I am telling Jas like -- [. . . ¶] so Brittneeh in the car, catch up to us, now she is like chasing us, but I am telling her there's kids in the car. I am telling Jasmine my son here, my daughter in there. Don't run from her. You don't have to act like we running. Pull into the gas station. So we pulled into the gas station."

"[I] hop out. I come right in the middle of the car. I said Brittneeh, what are you doing? Like you got Kassadi in there. I told you too like you doing all of this for no reason. . . . Brittneeh hops out of her car, run around the car to Jas right here. [I]t was so fast I couldn't even just grab her like so she couldn't throw a hit."

"When [Brittneeh punched Jasmine through the car window], I grabbed her from the back of her collar and yanked her back. [. . . ¶] To break it up -- yeah, to yank her back, to break it off. When I yanked her back, she fell. I ran up in front of Brittneeh, and then I just grabbed her so couldn't move. [. . . ¶ . . .] So now by the time I'm bear hugging her, her sister pull up, [Sade], and she see me holding her, so I guess she think she running around, she think she was getting beat up. So as soon as [Sade] get about how close you guys are, I grab [Sade] too because

she was riled up too. So I grabbed her, and I'm holding them. I'm trying to calm them down."

"She fell back 'cause I -- yanked her back, and you know, it's backwards, so she fell down. [. . .¶] But before she can get up, it wasn't Jas who I'm trying to calm down. It's Brittneeh. So before she can get up, I ran up to her and hugged her, like you know, bear hug. Not squeezing the life out of her, but just where she can't move. [. . . ¶] Right, and she trying to get away. She's trying to get back to Jas."

None of this was inculpatory, and the court acted within its discretion in excluding it as inadmissible hearsay.

Jenkins argues that Mitchell's admission that he "yanked" Williams could have subjected him to prosecution for assault. We disagree. The clear import of Mitchell's statement was that he intervened in a fight to save the combatants, and the trial court was well within its discretion in seeing it this way.

Jenkins argues exclusion of the evidence violated her due process rights. We disagree. (*People v. Brown* (2003) 31 Cal.4th 518, 545 [the "routine application of state evidentiary law does not implicate [a] defendant's constitutional rights"].)

B. No Unanimity Instruction was Necessary

Jenkins argues the trial court prejudicially erred by refusing to give a unanimity instruction such as CALCRIM No. 3500, as the assault in this case involved three discrete acts of violence, and the jury might have failed to reach a unanimous verdict on any one of them. We disagree.

"In a criminal case, a jury verdict must be unanimous. [Citations.] . . . Additionally, the jury must agree unanimously the defendant is guilty of a *specific* crime. [Citation.] Therefore, cases have long held that when the evidence suggests more than

one discrete crime, either the prosecution must elect among the crimes or the court must require the jury to agree on the same criminal act. [Citations.] [¶] This requirement of unanimity as to the criminal act 'is intended to eliminate the danger that the defendant will be convicted even though there is no single offense which all the jurors agree the defendant committed.' [Citation.] For example, in *People v. Diedrich* [(1982)] 31 Cal.3d 263, the defendant was convicted of a single count of bribery, but the evidence showed two discrete bribes. We found the absence of a unanimity instruction reversible error because without it, some of the jurors may have believed the defendant guilty of one of the acts of bribery while other jurors believed him guilty of the other, resulting in no unanimous verdict that he was guilty of any specific bribe. [Citation.] 'The [unanimity] instruction is designed in part to prevent the jury from amalgamating evidence of multiple offenses, no one of which has been proved beyond a reasonable doubt, in order to conclude beyond a reasonable doubt that a defendant must have done *something* sufficient to convict on one count.' " (*People v. Russo* (2001) 25 Cal.4th 1124, 1132.)

No unanimity instruction is required "when the acts alleged are so closely connected as to form part of one transaction. [Citations.] The 'continuous conduct' rule applies when the defendant offers essentially the same defense to each of the acts, and there is no reasonable basis for the jury to distinguish between them." (*People v. Stankewitz* (1990) 51 Cal.3d 72, 100.)

Even where the evidence shows that more than one act could suffice for a conviction of a particular offense, a unanimity instruction is not always required. For example, when a single homicide is charged, "unanimity as to exactly how the crime was

committed is not required." (*People v. Russo*, *supra*, 25 Cal.4th at p. 1135.)

Here, Jenkins committed only one discrete crime: manslaughter, and was not entitled to a unanimous verdict as to the particular manner in which the manslaughter occurred. (See *People v. Pride* (1992) 3 Cal.4th 195, 249-250.) Because the evidence did not suggest two discrete manslaughters occurred, and raised only "the possibility the jury may divide, or be uncertain, as to the exact way the defendant is guilty of a single discrete crime" (*People v. Russo*, *supra*, 25 Cal.4th at p. 1135), a unanimity instruction was not appropriate.

Jenkins argues that a unanimity instruction is required even if a crime can be portrayed as a continuous course of conduct, if "the record also reveals that defendant tendered a different defense to each alleged" act. (*People v. Hernandez* (2013) 217 Cal.App.4th 559, 574.) Without a unanimity instruction, she argues, six jurors could have found that he was perfectly justified during the second incident but not the first, while six other jurors could have found that the first incident never happened but convicted her after finding the second incident unjustified by perfect self-defense. In such a scenario, Jasmine would stand convicted based on the combined findings of two separate factions, each constituting only half the jury.

The argument is without merit because it is impossible to assign the stabbing to any discrete moment in which Jenkins could have acted in self-defense. The video evidence failed to depict the stabbing at all, and Jenkins's testimony was variable and nonspecific. Sade testified that the stabbing occurred when Mitchell held Williams in a bear hug. And A.V. testified it occurred after Mitchell had pushed Williams to the bus stop.

No reasonable juror could conclude, and Jenkins does not contend, that Jenkins could have stabbed Williams in self-defense while she was under Mitchell's control. Either Jenkins stabbed Williams while Mitchell restrained her, or she stabbed her as part of one continuous transaction—the fight. Either way, no unanimity instruction was required, and the trial court acted within its discretion in declining to give one.

C. There was No Prosecutorial Misconduct

After she killed Williams but before she was arrested, Jenkins made several statements on Instagram about the fight. In them, she bragged about her role and prowess. The statements were inconsistent with Jenkins's trial testimony, where she portrayed Williams as a serious threat.

During closing argument, the prosecutor commented on the discrepancy. She said, "This is how she's talking about the incident weeks later where someone is dead. 'The bitch tried to run up on my window again. I hopped out.' She tried to run up on my window again. What does she testify to? She hit me through the window, one punch. That's funny. Doesn't mention that at all." The prosecutor said Jenkins's testimony was a "bald-faced lie[]."

Jenkins contends these statements constitute misconduct. We disagree.

" 'Improper remarks by a prosecutor can " 'so infect [] the trial with unfairness as to make the resulting conviction a denial of due process.' " ' " (*People v. Carter* (2005) 36 Cal.4th 1114, 1204.) "[A] prosecutor who uses deceptive or reprehensible methods to persuade either the court or the jury has committed misconduct, even if such action does not render the trial fundamentally unfair." (*Ibid.*) Although the prosecutor " 'may

vigorously argue his case and is not limited to "Chesterfieldian politeness' " [citations]," excessive appeals to the sympathy or passions of the jury are inappropriate at the guilt phase of a criminal trial, such as directing the jury to view the crime through the eyes of the victim. (*People v. Fields* (1983) 35 Cal.3d 329, 363.)

Here, the prosecutor's reference to the discrepancy between Jenkins's statements on Instagram and her trial testimony constituted fair commentary on the evidence, and beyond a reasonable doubt had no power to excite the jury's sympathy or passions beyond that afforded by the substantive evidence.

II. Petition for Writ of Habeas Corpus

In 2006, the Williams sisters, both juveniles, were declared wards of the court due to their having committed three hate-crime assaults with force likely to produce great bodily injury. (*People v. Emerald R.* (Mar. 4, 2010, B196643), Lexis 1567, nonpub. opn.)[1]

Jenkins contends the prosecutor violated her constitutional and statutory rights by failing to disclose this material fact before trial. (See Pen. Code, § 1054.1 [prosecution must disclose all relevant and exculpatory evidence]; *Brady v. Maryland* (1963) 373 U.S. 83, 10 L.Ed.2d 215 (*Brady*) [due process requires prosecution to turn over all material evidence to the defense].) We disagree.

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[1] The juveniles in *People v. Emerald R.*, *supra*, B196643, are referred to as "Brit. W." and "Sade W.", which Respondent contends fails to establish they were the Williams sisters here. That is a fair point, but for present purposes we will assume Brit. W. and Sade W. were Brittneeh and Sade Williams.

A. Pertinent Procedural History

During pretrial discovery, the prosecution disclosed that both Brittneeh and Sade had prior criminal records.

The prosecution provided Sade's RAP sheet as follows: "Juvenile arrest-10/31/06 arrest for PC 212.5(c), PC 245(a)(l), PC 422.7(a), PC 242 with Long Beach PD-- no dispo stated or charges filed[;] 12/21/07 arrest for PC 487(B)(3) with Lakewood PD; convicted Pc 487(a) on 02/25/08, case number 8BF00075; 03/07/13 conviction set aside and dismissal granted PC 1203.4."

The prosecutor, Deputy District Attorney Lisa Kassabian, declares in these original habeas proceedings that she was unable to obtain further information regarding the disposition of Sade's 2006 arrest due to the passage of time and the fact that it was adjudicated as a juvenile matter. Kassabian declares that had she learned of any further information, she would have forwarded it to defense counsel.

The prosecution also provided evidence that in 2015 and 2016 Brittneeh had committed battery on Jenkins herself, a matter that was disclosed and explored at trial.

B. Pertinent Law

"Under *Brady* . . . and its progeny, the prosecution has a constitutional duty to disclose to the defense material exculpatory evidence, including potential impeaching evidence. The duty extends to evidence known to others acting on the prosecution's behalf, including the police. [Citations.] The duty to disclose 'exists even though there has been no request by the accused.' [Citations.] For *Brady* purposes, evidence is material if it is reasonably probable its disclosure would alter the outcome of trial. [Citations.] [¶] 'There are three components of a true *Brady* violation: The evidence at issue must be favorable to the

accused, either because it is exculpatory, or because it is impeaching; that evidence must have been suppressed by the State, either willfully or inadvertently; and prejudice must have ensued.' " (*People v. Superior Court* (*Johnson*) (2015) 61 Cal.4th 696, 709-710 (*Johnson*).)

C. Analysis

Jenkins contends that had she known about the 2006 adjudications, she would have used them to portray Brittneeh as the aggressor in the fight with Jenkins, and to impeach Sade's credibility.

We will assume solely for purposes of these proceedings that the prosecutor should have disclosed the 2006 adjudications to the defense, a matter that is in no way certain, as nothing suggests the prosecutor had reason to doubt the statement in Sade's rap sheet that there had been no disposition of the matter. We will also assume that had Jenkins known of the 2006 adjudications, she would have been able to get them before the jury, another entirely uncertain matter.

Even given these two assumptions, there is no reasonable probability that disclosure of the 2006 adjudication would have altered the outcome of trial.

As to Brittneeh, the 2006 juvenile adjudication demonstrated not only that she had been violent 12 years earlier. The 2015 and 2016 offenses, of which Jenkins was aware, indicated that Brittneeh had recently been violent *against her*. Moreover, the circumstances of the instant crime, and the video evidence, both showed that Brittneeh was an aggressor here. She chased Jenkins in her car, and was shown on video attacking her at the gas station. The jury thus already knew that Brittneeh had a penchant for violence against Jenkins.

Evidence is only material if there is a reasonable probability its admission would alter the trial result. (*Banks v. Dretke* (2004) 540 U.S. 668, 699.) Here, there is no reasonable probability that a jury that knew Brittneeh chased Jenkins in her car, attacked her at the gas station, and had attacked her twice before, yet still convicted Jenkins of manslaughter, would have convicted Jenkins of a lesser offense had they been informed that Brittneeh had assaulted other women 12 years earlier. (See *United States v. Agurs* (1976) 427 U.S. 97, 113-114 [no *Brady* violation where evidence of prior adjudications was largely cumulative of evidence already presented at trial of the victim's violent nature].)

As to Sade, the 2006 juvenile adjudication could have been used only to impeach her testimony. But the only material part of Sade's testimony was to the effect that Jenkins was not acting in self-defense when she stabbed Williams. This fact was corroborated by A.V., who testified Jenkins followed Williams to the bus stop to stab her.

Impeachment evidence is generally material where the witness " ' "supplied the only evidence linking the defendant(s) to the crime," [citations], or where the likely impact on the witness's credibility would have undermined a critical element of the prosecution's case [citations]. In contrast, a new trial is generally not required when the testimony of the witness is "corroborated by other testimony." ' " (*People v. Salazar* (2005) 35 Cal.4th 1031, 1050.) In light of A.V.'s corroboration, it is not reasonably probable that the 2006 juvenile adjudication would have "put the whole case in such a different light as to undermine confidence in the verdict." (*Kyles v. Whitley* (1995) 514 U.S. 419, 435.)

DISPOSITION

The judgment is affirmed, the writ denied, and the order to show cause discharged.

NOT TO BE PUBLISHED

CHANEY, J.

We concur:

ROTHSCHILD, P. J.

BENDIX, J.

CERTIFICATE OF SERVICE

I, the undersigned, declare as follows:

I am a citizen of the United States, over the age of 18 years and not a party to the within action. My business address is 8839 N. Cedar Ave #312, Fresno, CA 93720.

On March 2, 2021, I served the within

APPELLANT'S PETITION FOR REVIEW

upon the parties named below by depositing a true copy in a United States mailbox in Fresno, California, in a sealed envelope, postage prepaid, and addressed as follows:

Ms. Jasmine Jenkins, WG2222
CCWF
P.O. Box 1508
Chowchilla, CA 93610

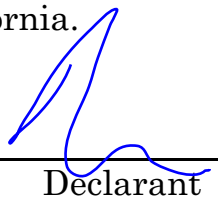
Los Angeles Superior Court
Hon. Lisa Lench
210 West Temple Street
Los Angeles, CA 90012

and upon the parties listed below through the Truefiling system:

CAP - LA	Attorney General
LA County DA	Court of Appeal

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 2, 2021 in Fresno, California.



Declarant

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **In re Jasmine Jenkins**
Case Number: **TEMP-CVX605Q3**
Lower Court Case Number:

1. At the time of service I was at least 18 years of age and not a party to this legal action.

2. My email address used to e-serve: **Rudolph.AlejoEsq@gmail.com**

3. I served by email a copy of the following document(s) indicated below:

Title(s) of papers e-served:

Filing Type	Document Title
ISI_CASE_INIT_FORM_DT	Case Initiation Form
PETITION FOR REVIEW	B301638_PR_Jenkins

Service Recipients:

Person Served	Email Address	Type	Date / Time
Attorney General	docketinglaawt@doj.ca.gov	e-Serve	3/2/2021 11:58:09 AM
Attorney General 305084	Paul.Thies@doj.ca.gov	e-Serve	3/2/2021 11:58:09 AM
District Attorney	Appellate.nonurgent@da.lacounty.gov	e-Serve	3/2/2021 11:58:09 AM

This proof of service was automatically created, submitted and signed on my behalf through my agreements with TrueFiling and its contents are true to the best of my information, knowledge, and belief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

3/2/2021
Date

/s/Rudolph Alejo
Signature

Alejo, Rudolph (284302)
Last Name, First Name (PNum)

Law Office of Rudolph J. Alejo
Law Firm