

# SUPREME COURT COPY

SUPREME COURT  
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Deputy

IN THE SUPREME COURT OF CALIFORNIA

**S141210**

S141210

In re

**ABELINO MANRIQUEZ**

On Habeas Corpus

Los Angeles Sup. Ct. Case No. VA004848

**REFEREE'S FINDINGS OF FACT IN  
RESPONSE TO CALIFORNIA SUPREME  
COURT'S REFERENCE QUESTIONS**

(Habeas Corpus)

## **AFTER EVIDENTIARY HEARING**

### Questions To Be Answered

On March 20, 2013, the Court ordered the referee to hold an evidentiary hearing and to make findings of fact responsive to the following questions:

1. What were Juror C.B.'s reasons for failing to disclose her childhood abuse on her juror questionnaire and during voir dire at petitioner's trial?
2. Was the nondisclosure intentional and deliberate?
3. Considering Juror C.B.'s reasons for failing to disclose these facts, was her nondisclosure indicative of juror bias?
4. Was Juror C.B. actually biased against petitioner?

### Summary of Findings

Juror C.B. failed to disclose her childhood abuse on her juror questionnaire and during voir dire at petitioner's trial because she did not consider her childhood to have been a criminal act or an act of violence, and she did not consider herself to have been a victim. Her nondisclosure was

1 neither intentional nor deliberate. Her nondisclosure was not indicative of juror bias. Juror C.B.  
2 was not actually biased against petitioner.

3  
4 The Evidentiary Hearing

5 The referee conducted an evidentiary hearing on July 30, 2013. Petitioner was  
6 represented by John R. Reese, Esq., and Nitin Jindal, Esq., of Bingham McCutchen, LLP.  
7 Respondent was represented by Deputy District Attorney Brian R. Kelberg. Timothy M.  
8 Weiner, Deputy Attorney General, was also present. Petitioner was not present. The only  
9 witness was "Juror C.B."

10 The referee admitted into evidence the following exhibits submitted by petitioner:<sup>1</sup>

- 11 P-1 3/20/2013 - Supreme Court Minute Order Assigning Referee
- 12 P-2 8/9/1993 - Juror C.B.'s Pre-Trial Juror Questionnaire
- 13 P-3 10/21/1993 - Juror C.B.'s Post-Trial Juror Questionnaire
- 14 P-4 8/28/2007 - 2007 Declaration of Juror C.B.
- 15 P-5 8/9/2012 - 2012 Declaration of Juror C.B.
- 16 P-6 8/6/2012 - Transcript of Interview of Juror C.B.
- 17 P-7 5/15/2013 - Emails produced by Los Angeles District Attorney: MAN0001- MAN0017
- 18 P-8 5/13/2013 - Email between Los Angeles D.A. and Mr. Reese
- 19 P-9 7/10/2013 - Email between Los Angeles D.A. and Juror C.B.
- 20 P-10 5/16/2013 - Email between Los Angeles D.A. and Mr. Reese

21 The referee admitted the following exhibits submitted by respondent:

- 22 R-A Reporter's Transcript Vols. 1, 2, and 3, *People v Manriquez*, Case No. VA004848.
- 23 R-B Reporter's Transcript Vols. 9 and 10, *People v Manriquez*, Case No. VA004848.

24 <sup>1</sup> Petitioner's counsel also offered an August 28, 2007, Declaration of Juror C.B. into  
25 evidence as Exhibit 4. (Evidentiary Hearing Transcript of proceedings before the referee held on  
26 July 30, 2013 (hereafter "EHT"), p. 73, lines 3-4.) <sup>1</sup> Respondent's counsel objected to this  
27 document being received for the truth of the matter asserted but did not object to its receipt "for  
28 the non-hearsay purpose that we used it in examination of the juror to show that there was an  
absence in the document of any reference to an explanation for the discrepancy [between Juror  
C. B.'s answers to Questions 63-66 of the jury selection questionnaire and Juror C. B.'s abusive  
childhood history as recounted by Juror C. B. in the post-verdict questionnaire from petitioner's  
trial counsel]." (*Id.*, lines 9-13.)

1 **REFEREE'S FINDINGS**

2  
3 **I. Question 1: What were Juror C. B.'s reasons for failing to disclose her**  
4 **childhood abuse on her juror questionnaire and during voir dire at**  
5 **petitioner's trial?<sup>2</sup>**

6 The referee finds that Juror C.B.'s reasons for failing disclose her childhood abuse on her  
7 juror questionnaire and during voir dire at petitioner's trial were that she did not consider her  
8 childhood experiences to have been criminal acts or acts of violence, and she did not consider  
9 herself to have been a victim of crime.

10  
11 **Background**

12 **Juror C.B's Juror Questionnaire.**

13 The specific questions at issue here and Juror C. B.'s answers to those questions were:

14 Question 63 "Have you or anyone close to you been the victim of a crime, reported or  
15 unreported?";

16 Question 64 "Have you or any relative or friend ever experienced or been present during  
17 a violent act, not necessarily a crime?";

18 Question 65 "Have you ever seen a crime being committed?"; and

19 Question 66 "Have you ever been in a situation where you feared being hurt or being  
20 killed as a result of violence of any sort?"

21 (Pre-trial jury questionnaire completed by Juror C. B. which she signed under penalty of  
22 perjury on August 9, 1993, marked Exhibit 2 to the Evidentiary Hearing.)

23 Juror C. B. answered "No" to Questions 64-66. (*Id.*, page Bates-stamped TF003932.)

24 With respect to Question 63, it appears Juror C. B. initially checked the answer "No" before  
25 crossing over her checkmark and checking the "Yes" line. (*Id.*, pages Bates-stamped TF003931-  
26

27  
28 <sup>2</sup> Three volumes of the Reporter's Transcript on Appeal (hereafter "RT"), reflecting the oral voir  
dire conducted at petitioner's trial, were collectively marked as Respondent's Exhibit A.

1 003932.) Juror C. B. then indicated her "Home Was Robbed" "1" time. The listed victim was  
2 Juror C. B.'s "roommate before we lived together." (*Id.*, page Bates-stamped TF003932.)  
3

4 **Juror C.B.'s Evidentiary Hearing Testimony.**

5 At the evidentiary hearing ordered by the Court, Juror C.B. testified that, from her  
6 perspective several years after petitioner's trial, she realized she had in fact been the victim of a  
7 crime and a violent act, and that in 1993 she had provided mistaken answers to some questions  
8 on her pretrial juror questionnaire. (EHT, p. 17, line 1 – p. 20, line 25.)  
9

10 Juror C.B. explained at the hearing how she came to give mistaken answers to Questions  
11 63-66 on the pretrial juror questionnaire. She testified that in 1993 she considered molesting a  
12 five-year-old to be a criminal act, but that  
13

14 "I did not consider myself a victim of a crime. I was a victim of circumstance.  
15 And that being said, I never thought of myself as having been a victim of any  
16 kind. So in 1993, I did not even think about the fact that I had been criminally  
17 assaulted, as it were, because in the '50's when I grew up, abuse was not a crime.  
18 Kids were abused all the time. And using kids for hard labor was very common.  
19 [¶] And as far as the molestation, it was a one-time thing, it never happened again.  
20 It went into the recesses of my mind. And it was not even thought of in 1993  
21 until the very end of this whole trial." (EHT, pp. 19, line 5 – p. 20, line 12.)

22 As a result, when asked by petitioner's counsel whether in 1993 she considered the  
23 molestation she had suffered as a child "to have been an act of violence, not necessarily a  
24 crime?", Juror C. B. testified: "No, I didn't." (EHT, p. 20, lines 18-22.) Similarly, Juror C. B.  
25 testified that she did not consider the physical abuse that happened to her to have been an act of  
26 violence. (*Id.*, lines 23-25.) When petitioner's counsel asked Juror C. B. why she didn't consider  
27 the physical abuse that happened to her to be an act of violence, not necessarily a crime, Juror C.  
28 B. testified: "I guess my answer is, you had to be there. When you are growing up and that's  
your environment, you take it in stride." (EHT, p. 20, line 26-p.21, line 3.)

1 In her testimony, Juror C. B. acknowledged that, during her childhood, she had in fact  
2 been present during a violent act, and that when she answered Question 64 in 1993, she did not  
3 interpret the question as imposing any timeframe limitation *per se*. (EHT, p. 38, lines 3-16.)  
4 Juror C. B. testified that she considered Question 64 "an important question[.]" one which was  
5 neither "invasive" nor "ask[ing] information that was no one's business[.]" (EHT, p.40, line 26-  
6 p.41, line 5.) When specifically asked by petitioner's counsel why she had not disclosed her  
7 childhood abuse in response to Question 64, Juror C. B. testified: "Because the question  
8 indicated a violent act not necessarily a crime, and I did not consider my childhood a violent  
9 act." (EHT, p. 38, lines 19-21.)  
10  
11

12 Juror C. B. testified that, before answering Questions 63 through 66 on the questionnaire,  
13 she did sit back and think about her answers before she checked the "No" boxes. (EHT, p. 68,  
14 lines 9-11.) She also stated: "I tried to recall if I had been a victim of any crime, and nothing  
15 came to mind." Juror C. B.'s "childhood incidents didn't even come to mind" "because as I--no,  
16 they did not come to mind. And as I stated previously, I truly did not think of myself as a victim  
17 of a crime." (EHT, p. 68, lines 19-21.) "[Those instances] never entered my mind [before  
18 answering Questions 63 through 66 on the questionnaire]. [¶] [Q.]... [¶] Until the penalty phase,  
19 that's what triggered it. Other than that, I had no--I had no way of knowing that was even going  
20 to be an issue and so nothing triggered the thought process to bring that forward." (EHT, p. 68,  
21 line 28-p.69, line 6.)  
22  
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24

25 Juror C. B. further testified that her present recollection of what triggered her thought  
26 process at petitioner's trial about her childhood abuse "was during the penalty phase where the  
27  
28

1 gentleman [petitioner's counsel] was talking about Mr. Manriquez's background." (EHT, p. 69,  
2 lines 11-13.)

3 "Well, believe it or not--and I know we're not supposed to say what the other  
4 people were saying, but there was another gentleman [on the jury] who actually  
5 brought it up himself about having been beaten quite often by his father, and all of  
6 these things triggered in my mind my own abuse. And that's why I shared it. [¶]  
7 [Q.]... [¶] [W]hen we're younger, when we're young, and especially [for those  
8 who were young] in the '50's there was no--and I must say, the gentleman that  
9 shared first was actually a little bit older than I was, so he experienced similar acts  
10 that I did. And he didn't think of it as--he didn't share it that way like he'd been,  
11 you know, violated and it was a criminal act. And we shared our life experiences  
12 for the jury's benefit to show we are productive people, we don't commit  
13 murders." (EHT, p. 31, lines 9-27.)

14 During the penalty phase of petitioner's trial, Juror C. B. told the other jurors about her  
15 childhood abuse. "The specifics [of what I told the other jurors] that I recall simply was that I  
16 had been raised in an abusive environment and had been molested, raped when I was five, and  
17 that I did not feel that was an excuse to become an unproductive, violent person in my  
18 adulthood." (EHT, p. 28, lines 2-6.)

19 It appears to the referee that Juror C. B. and the other juror mentioned by Juror C. B. in  
20 her evidentiary hearing testimony simply accepted the invitation made by petitioner's counsel in  
21 his closing penalty phase argument: "And before you judge him, put yourself in his place.  
22 Would you be the person you are today? No question you wouldn't be. Would you do the things  
23 that he did? Maybe. Maybe not." (EHT 58, lines 2-7, quoting from Ex. B, 10 RT 2291.) Juror  
24 C. B. agreed with petitioner's counsel that in 1993, her "past personal experiences shape[d] the  
25 outlook that [she] had on [life]." "Sure, I think all of our experiences shape the outlook of our  
26 lives."(EHT, p.27, lines 6-11.)

27 ///  
28

1 **The referee finds Juror C.B.'s testimony credible.**

2  
3 Juror C. B.'s experiences of growing up as a child in the 1950's, which shaped her view of  
4 life, support her explanation of why she did not disclose the circumstances of her abusive  
5 childhood. Juror C. B.'s perspective that she did not view herself as a victim of either a crime or  
6 act of violence is consistent with how society viewed and treated abuse of children 60 years ago,  
7 as distinct from how society now views and treats such abuse.  
8

9 Also supporting Juror C.B.'s credibility is the fact that Juror C. B. herself brought her  
10 abusive childhood history to the attention of petitioner's trial counsel when she voluntarily  
11 responded to trial counsel's post-verdict juror questionnaire. (See Juror C.B.'s Post-Trial Juror  
12 Questionnaire dated October 21, 1993, marked Exhibit 3 to the Evidentiary Hearing, Bates-  
13 stamped p. 234.) Furthermore, not only did Juror C. B. inform petitioner's trial counsel about her  
14 abusive childhood history, she also of her own accord informed petitioner's habeas counsel that  
15 she had communicated this information to her fellow jurors during jury deliberations as part of  
16 the jury's assessment of petitioner's proffered mitigation evidence of his own abusive background  
17 as a child in Mexico. (Declaration of Juror C. B. dated August 28, 2007, marked as Petitioner's  
18 Exhibit 4, pp. 3-4 (Bates-stamped pp. 1142-1143), ¶¶ 9-11; see also EHT, p. 12, line 8 -p. 13,  
19 line 14.) This strongly suggests that she had no hidden agenda or bias when serving as a juror.  
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22

23 The referee finds the evidentiary hearing testimony of Juror C. B. credible. Therefore, the  
24 referee finds that reasons testified to by Juror C. B. for not disclosing in response to jury  
25 questionnaire Questions 63-66 the circumstances of her abusive childhood background were, in  
26 fact, the reasons Juror C. B. did not disclose her abusive childhood background in response to  
27 Questions 63-66 of the jury questionnaire. The referee's credibility finding with respect to Juror  
28

1 C. B.'s testimony is based upon Juror C. B.'s demeanor, manner and mode of testifying—Juror C.  
2 B. testified in a direct, responsive, thoughtful and consistent manner to questions posed by the  
3 parties' attorneys and by the referee, and was not evasive, uncooperative or defensive.  
4

5 **It is reasonable that oral voir dire might not have prompted Juror C.B.'s**  
6 **recollections of her childhood.** Juror C. B. did not disclose her childhood experiences on oral  
7 voir dire because, given her above-discussed perspective on her childhood, she was never asked  
8 any question which should have elicited such information. (See, Ex. A, 2 RT p. 279, line 27-p.  
9 282, line 6 [oral voir dire of Juror C. B. by petitioner's trial counsel]; 2 RT p. 321, line 28-p. 323,  
10 line19 [oral voir dire of Juror C. B. by the prosecutor].) Similarly, a review of the entire oral  
11 voir dire of the prospective jurors (Ex. A, 1 RT, pp. 170-239; 2 RT, pp. 240-544; 3 RT, pp. 545-  
12 782) does not disclose any question posed or any answer given which should have prompted  
13 Juror C. B. to seek to amend her written responses to Questions 63-66.  
14  
15

16 **Juror C.B.'s reasons do not conflict with each other.** The referee finds that Juror  
17 C.B.'s testimony explaining different aspects of her questionnaire experience are not in conflict.  
18 As noted above, in her testimony, Juror C. B. acknowledged that during her childhood, she had  
19 in fact been present during a violent act and that when she answered Question 64 in 1993, she  
20 did not interpret the question as imposing any timeframe limitation *per se*; but that because she  
21 did not view herself as having been the *victim* of a crime, her experiences did not come to mind  
22 in response to these questions; that she viewed the questions at issue as important and  
23 purposeful, and that she believed she had answered them accurately and honestly. EHT, p. 40,  
24 line 15-p. 41, line 17.  
25  
26  
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1           **II. Question 2. Was the nondisclosure intentional and deliberate?**

2  
3           For the reasons set forth in the referee's findings with respect to Question 1, above, the  
4 referee finds Juror C. B.'s nondisclosure to be neither intentional nor deliberate.

5  
6           **Juror C.B.'s childhood experiences did not come to mind.** Given Juror C. B.'s  
7 credible testimony that she did not consider herself to be a victim of violence or a crime despite  
8 her childhood experiences, the referee has concluded that Juror C. B. believed she had honestly  
9 and accurately answered Questions 63-66.

10  
11           "[T]he unfortunate part about the whole thing is that I did not consider myself a  
12 victim of a crime. I was a victim of circumstance. And that being said, I never  
13 thought of myself as having been a victim of any kind. So in 1993, I did not even  
14 think about the fact that I had been criminally assaulted, as it were, because in the  
15 '50's when I grew up, abuse was not a crime. Kids were abused all the time. And  
16 using kids for hard labor was very common. [¶] And as far as the molestation, it  
17 was a one-time thing, it never happened again. It went into the recesses of my  
18 mind. And it was not even thought of in 1993 until the very end of this whole  
19 trial." (EHT, p. 19, line 27-p.-20, line12.)

20           In discussing her thought processes when she was completing the answers to Questions  
21 63-66 on the Questionnaire, Juror C. B. testified that she "tried to recall if [she] had been a  
22 victim of any crime, and nothing came to mind. [¶]... [¶] No, [her "childhood incidents didn't  
23 even come to mind..."] because as I--no, they did not come to mind. And as I stated previously,  
24 I truly did not think of myself as a victim of a crime." (EHT, p. 68, lines 14-21.) In response to  
25 the referee's question—"Would it be accurate to say when you got to those [questions, Questions  
26 63-66], those instances [from Juror C. B.'s childhood] never came to mind before you  
27 answered?"—Juror C. B. testified: "They never entered my mind." (*Id.*, lines 23- 28.) Finally,  
28 Juror C. B. explicitly and credibly testified that when she completed the juror questionnaire,  
Exhibit 2, in 1993, she believed that she had honestly answered every question on the

1 questionnaire, including Questions 63 through 66. "I felt I was being honest, yes, uh-huh."  
2 (EHT, p. 52, line 16[.]  
3

4 **Nondisclosure can be inadvertent despite "clear and unambiguous" questioning.**

5 Petitioner argued at oral argument that the nondisclosure must have been intentional and  
6 reflective of bias because the questions of the pretrial questionnaire were clear and unambiguous.  
7 Despite the seeming clarity of the questions, however, the fact of nondisclosure does not  
8 necessarily indicate that nondisclosure was deliberate. Even when the questions are clear, it is  
9 not misconduct for a juror to innocently fail to answer such questions correctly. See, e.g., *In re*  
10 *Boyette* (2013) 56 Cal.4<sup>th</sup> 866, 890; *In re Hamilton* (1999) 20 Cal.4<sup>th</sup> 274, 298-301.  
11  
12

13 No evidence has been adduced to indicate that Juror C.B. intentionally *concealed* her  
14 childhood experiences. After observing Juror CB testify, the referee concludes that all voir dire  
15 questions were answered in good faith by her with no intent to conceal or deceive.  
16  
17

18 **III. Question 3. Considering Juror C. B.'s reasons for failing to disclose these facts, was**  
19 **her nondisclosure indicative of juror bias?**

20 For the reasons set forth by the referee in response to Questions 1 and 2, above, the  
21 referee finds that Juror C. B.'s nondisclosure was not indicative of juror bias.  
22

23 In light of Juror C. B.'s credible and honest belief that she had accurately answered  
24 Questions 63-66, her nondisclosure of the circumstances of her abusive childhood history is not  
25 indicative of actual juror bias. The referee also notes that Juror C. B. testified that, prior to being  
26 called as a prospective juror for petitioner's trial, she knew nothing about petitioner Abelino  
27  
28

1 Manriquez or the crimes with which he was charged; nothing to the contrary was adduced at the  
2 evidentiary hearing. (EHT, p. 48, lines 10-16.)

3 **Inadvertent disclosure does not give rise to a presumption of bias.** A juror who  
4 honestly but incorrectly answers voir dire questions does not intentionally and deliberately fail to  
5 disclose, and such failure is “not indicative of juror bias.” *In re Boyette*, supra, 56 Cal.4<sup>th</sup> at 873.  
6

7  
8 The referee was not expressly charged with determining whether Juror C.B.’s  
9 unintentional nondisclosure constituted juror misconduct, but even if the nondisclosure does  
10 constitute misconduct, and therefore gives rise to a presumption of prejudice, such a presumption  
11 of prejudice may be rebutted. The whole record must be examined to determine whether there is  
12 any evidence of bias. *In re Hamilton*, supra, 20 Cal.4<sup>th</sup> at 296. “What is clear is that an honest  
13 mistake on voir dire cannot disturb a judgment in the absence of proof that the juror’s wrong or  
14 incomplete answer hid the juror’s actual bias.” *Id.* at 300. Here, Juror C.B.’s voir dire answers  
15 and her credible testimony that she gave time and thought to the responses she gave in her  
16 pretrial questionnaire are an indication that she was attempting to provide full and honest  
17 answers, and that her nondisclosure was inadvertent. From a review of the whole record, the  
18 referee concludes no such bias existed.  
19  
20

21  
22 **IV. Question 4. Was Juror C. B. actually biased against Petitioner?**

23 The referee finds that Juror C.B. was not actually biased against Petitioner.  
24

25 **Juror C.B.’s testimony is direct evidence she was not biased.**

26 For the reasons set forth by the referee above in response to Questions 1, 2 and 3, the  
27 referee finds that Juror C. B. was not actually biased against petitioner. In addition to the reasons  
28

1 set forth above, the referee finds credible Juror C. B.'s testimony in response to Respondent's  
2 question—"Were you biased against Mr. Manriquez at any time while you were a sitting juror in  
3 this trial?"—"No, sir, I was not." (EHT, p. 53, lines 25-27.)  
4

5 **Circumstantial evidence supports a finding that Juror C.B. was not actually biased**  
6 **against Petitioner.**

7 Juror C. B. herself brought her history of childhood abuse to the attention of petitioner's  
8 trial counsel when she voluntarily responded to trial counsel's post-verdict questionnaire (Ex. 3).  
9 Juror C. B. has discussed this history with both petitioner's habeas counsel (see, Ex. 4 [Aug. 28,  
10 2007 Decl. of Juror C. B.]) and respondent's counsel, Dep. Atty. Gen. Weiner (see, EHT Exs. 5  
11 [Aug. 9, 2012 Decl. of Juror C. B.] & 6 [transcript of Aug. 6, 2012 interview of Juror C. B. by  
12 Dep. Atty. Gen. Weiner and Special Agent Beach]). Like the juror in *Hamilton*, supra, when  
13 specifically asked during the July 30, 2013, evidentiary hearing about her childhood experiences,  
14 Juror C. B. was forthright and candid.  
15  
16

17 **Juror C.B. did not use extrajudicial information in deciding Petitioner's case.**

18 Petitioner's counsel argued at oral argument that Juror C. B. was actually biased because  
19 she prejudged Petitioner's mitigation defense and was unable to put aside her own history of  
20 abuse to determine his sentence. This argument, however, fails to differentiate between  
21 "extrajudicial information" a juror has received outside of the courtroom, which cannot be used  
22 by the juror in deciding a case, and a juror's life experiences, which act as a prism through which  
23 jurors at the penalty phase of a capital case may properly assess the weight to be given to  
24 proffered mitigation evidence. "Given the jury's function at the penalty phase under our capital  
25 sentencing scheme, for a juror to interpret evidence based on his or her own life experiences is  
26 not misconduct." *People v. Wilson* (2008) 44 Cal.4th 758, 830. That is all that Juror C.B. did.  
27  
28

1 The reference to her childhood experience during deliberation was merely her way of analyzing  
2 the penalty phase evidence through the prism of her life's experiences and not misconduct of any  
3 sort.

4  
5 **Juror C.B.'s testimony that she rejected Petitioner's defense does not necessarily**  
6 **constitute an admission of bias.** Petitioner also argued that a juror's admission that she rejected  
7 a defense based on a similar and traumatic personal experience is an admission of bias. For this  
8 proposition, he cites to *People v. Blackwell* (1987) 191 Cal. App. 3d 925, 931. *Blackwell* does  
9 not support that proposition, and is also factually distinguishable. Although the *Blackwell* court  
10 did conclude that a *concealing* juror in that case had committed misconduct, this conclusion was  
11 not based solely on the similarity of past experience the juror shared with the defendant in that  
12 case. In fact, the *Blackwell* court found that the biased juror in that case had intentionally  
13 concealed information that should have been elicited on voir dire, and had committed  
14 misconduct. Such is not the case here as there was no intentional concealment.


15  
16  
17  
18  
19 Petitioner at oral argument suggested that Juror C.B.'s testimony should be rejected as  
20 self-serving to avoid a perjury charge. The referee declines to do so. This suggestion is nothing  
21 more than rank speculation on the part of the petitioner. Given the four-year statute of  
22 limitations to prosecute perjury (see, Pen. Code, §§118, 801.5, 803(c)), even had Juror C. B.  
23 committed perjury in responding to the juror questionnaire in 1993, no criminal prosecution for  
24 that offense was viable in 2013. On the other hand, if Juror C. B. committed perjury during her  
25 2013 evidentiary hearing testimony, no such statute of limitations bar would protect her from a  
26 possible perjury prosecution. Petitioner's testimony at the evidentiary hearing, if truthful, would  
27  
28

1 not provide grounds for a perjury prosecution. Juror C.B.'s testimony before the referee was not  
2 plausibly motivated by a self-serving desire to avoid perjury charges.  
3

4  
5 The referee respectfully recommends that the Court find that Juror C.B. failed to disclose her  
6 childhood abuse on her juror questionnaire and during voir dire at petitioner's trial because she  
7 did not consider her childhood experiences to have been criminal acts or an acts of violence, and  
8 because she did not consider herself to have been a victim; that her nondisclosure was neither  
9 intentional nor deliberate, that her nondisclosure was not indicative of juror bias; and that Juror  
10 C.B. was not actually biased against petitioner.  
11

12 Respectfully submitted,

13  
14 Dated: April 14, 2014  
15 Los Angeles, California

16   
17 \_\_\_\_\_  
18 WILLIAM C. RYAN  
19 Court-Appointed Referee  
20 and  
21 Judge of the Superior Court  
22 County of Los Angeles  
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