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2 For Los Angeles County
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9
10 **IN THE SUPERIOR COURT FOR THE COUNTY OF LOS ANGELES**
11
12 **STATE OF CALIFORNIA**

13 In re) Case No. BA128771
14)
15 SONIA CASTRO)
16) PETITION FOR WRIT OF
17) HABEAS CORPUS;
18) VERIFICATION; POINTS
19) AND AUTHORITIES;
20 On Habeas Corpus) DECLARATIONS
21)
22)

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24 TO THE HONORABLE LARRY P. FIDLER, PRESIDING JUDGE OF THE
25 CRIMINAL COURTS, SUPERIOR COURT OF THE STATE OF CALIFORNIA,
26 COUNTY OF LOS ANGELES, CENTRAL DISTRICT, DEPARTMENT 100, AND TO
27 SONIA CASTRO:
28

The People of the State of California, Real Party in Interest in the above
entitled action, by their counsel, Gil Garcetti, District Attorney for Los Angeles
County, allege in support of this petition for writ of habeas corpus as follows:

I

This petition is being brought by the District Attorney for Los Angeles County
pursuant to Penal Code section 1474 on behalf of petitioner Sonia Castro. In the
proceeding commenced by the filing of this petition, the District Attorney
represents the People of the State of California and is acting as a friend of the court
and the petitioner. The purpose of this petition is to seek the unconditional
release of petitioner Castro from all restraints whatsoever resulting from the

1 criminal judgment in case number BA128771.

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3 II

4 Petitioner Sonia Castro was charged in information number BA128771 with
5 possession for sale of cocaine base, in violation of Health & Safety Code §11351.5.
6 On March 7, 1996, petitioner pled guilty to that charge and was sentenced to serve
7 180 days in County Jail as a condition of three years formal probation. There was
8 no preliminary hearing or trial. Petitioner is currently a fugitive after having
9 violated the terms and conditions of her probation. Prior to October 15, 1999, the
10 District Attorney's Office had no reason to believe Castro's conviction was based
11 upon false information.

12 III

13 On August 25, 1998, and thereafter in superseding criminal filings, former
14 LAPD Officer Rafael Perez was charged with 10 felony counts, involving the theft
15 of approximately eight (8) pounds of cocaine from the Property Division of the
16 LAPD and the possession for sale of the stolen cocaine. The first trial on these
17 charges ended with a hung jury. Prior to the scheduled retrial on these charges,
18 Perez and his lawyer discussed his case with Deputy District Attorney Richard
19 Rosenthal requesting a case settlement. On September 8, 1999, Perez entered a
20 guilty plea and agreed to cooperate with a continuing criminal investigation
21 relating to alleged misconduct committed by other police officers assigned to the
22 Rampart Division.

23
24 IV

25 During the course of a review of Rampart Division arrest packages, former
26 Officer Perez identified an arrest involving petitioner Sonia Castro and co-arrestee

1 Michael Williams on March 3, 1996. On October 15, 1999, Rafael Perez testified
2 under oath that Sonia Castro was convicted based upon a false police report,
3 prepared by Thomas O'Grady. Based upon statements given by LAPD Officer Perez,
4 and other information now known to LAPD, the District Attorney's Office has
5 concluded that the judgment of conviction against petitioner should be
6 overturned.

7
8 V

9 Under the circumstances outlined above and in the accompanying
10 Declarations attached herein, based on the applicable law as set forth in the
11 attached Points and Authorities in support of this petition, a new trial need not be
12 granted. Rather, the District Attorney believes, and does hereby move that, upon
13 the granting of this petition, this case be dismissed.

14 VI

15 The District Attorney hereby incorporates by reference, as though set forth in
16 haec verba, all Appendices filed herein, as well as the attached Points And
17 Authorities submitted in support of this petition.

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1 VERIFICATION

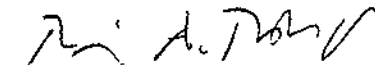
2
3 I, the undersigned, declare under penalty of perjury as follows:
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5 I am an attorney at law, duly licensed to practice in all the courts of California,
6 and I am employed as a deputy district attorney for the County of Los Angeles.
7

8 In this capacity, as an officer of the court and a person acting in behalf of
9 petitioner in the foregoing petition for writ of habeas corpus, I make this
10 verification in that the allegations made therein are more within my knowledge
11 than petitioner's.
12

13 I have read the foregoing petition and believe of my own personal knowledge
14 that the matters alleged therein are true, based on the declarations attached hereto.
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16 Executed this 31st day of January, 2000, at Los Angeles, California.
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20 RICHARD A. ROSENTHAL
21 Deputy District Attorney
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1 POINTS AND AUTHORITIES

2 THE FACTS

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4 In a recent revelation by former LAPD Officer Rafael Perez, he has declared
5 that both he and his fellow officer, Thomas O'Grady, provided false information
6 which led to the conviction of petitioner Sonia Castro in Case No. BA128771. The
7 District Attorney's Office has reason to believe that LAPD Officer Perez is now
8 telling the truth with respect to his admission that a false police report was
9 prepared and that petitioner Castro was wrongly convicted. (See Exhibits A and B,
10 *supra.*)

11 THE LAW

12 I

13 THE DISTRICT ATTORNEY CAN BRING THIS PETITION

14 Penal Code section 1474 provides in pertinent part: "Application for the writ
15 is made by petition, signed either by the party whose relief it is intended, or by
16 some person in his behalf. . . ." Although undoubtedly highly unusual, no statute
17 and no published case (which we have discovered) precludes the District Attorney
18 from filing a petition on behalf of an incarcerated person, convicted of a felony. In
19 this case, the District Attorney seeks not to represent petitioner, but simply to apply
20 for the writ on petitioner's behalf. The District Attorney will continue to represent
21 the People of the State of California, and seeks to do justice in this case as a matter
22 of his constitutional duty and as a friend of the court.

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II

THE SUPERIOR COURT HAS JURISDICTION TO HEAR
THIS MATTER AND GRANT RELIEF

Habeas corpus is guaranteed by both the federal and state constitutions. (See U.S. Const., Art. I, Sec 9; Cal. Const., Art I, Sec. 11.) Its purpose is to obtain prompt judicial release from illegal restraint. (*Carbo v. United States* (1961) 364 U.S. 611, 5 L.Ed.2d 329, 81 S.Ct. 338, 340; Penal Code section 1473.) The normal relief granted on a successful application showing illegal restraint is discharge of the prisoner. (Penal Code section 1485.)

This court, Department 100 of the Superior Court, has jurisdiction to grant relief in this matter. (Cal. Const., Art. VI, sec. 10; Witkin & Epstein, Cal. Crim. Law, Second Ed., Vol. 6, sec. 3348, p. 4152.)

III

PETITIONER WAS DENIED HER CONSTITUTIONAL
RIGHT TO DUE PROCESS OF LAW

Under Penal Code section 1473(b), a prisoner may seek habeas relief for the following reason: "(1) False evidence that is substantially material or probative on the issue of guilt or punishment was introduced against a person at any hearing or trial relating to his incarceration. . . ." "False evidence is 'substantially material or probative' if it is of 'such significance that it may have affected the outcome,' in the sense that 'with reasonable probability it could have affected the outcome. . ..'" (*In re Sasounian* (1995) 9 Cal.4th 535, 543, emphasis in original.)

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1 In this case, the District Attorney submits that the information contained in
2 the arrest report prepared by Officer O'Grady may have been false, was substantially
3 material to the guilt of petitioner, and, had its falsity been known to petitioner, the
4 District Attorney or the court, it would have affected the outcome of the case
5 prosecution.

6
7 It is the burden of the petitioner to prove her allegations by a preponderance
8 of the evidence in order to merit relief in a habeas corpus proceeding. (*People v.*
9 *Ledesma* (1987) 43 Cal.3d 171, 243.) Given the position of the District Attorney,
10 together with the evidence shown by Exhibits A and B, it is clear that petitioner has
11 met her burden.

12
13 CONCLUSION

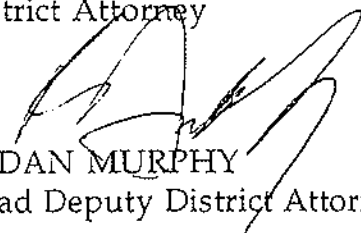
14 For the reasons set forth above, the petition should be granted, the conviction
15 of petitioner Castro should be reversed, the case should be dismissed, the arrest
16 warrant recalled and all rights and privileges taken from petitioner as the result of
17 that conviction be restored.

18 Dated: January 31, 2000

Respectfully Submitted,

19 GIL GARCETTI,
20 District Attorney

21 By


22 R. DAN MURPHY
23 Head Deputy District Attorney

24 RICHARD A. ROSENTHAL
25 Deputy District Attorney

26 Special Prosecution Team

27 Attorneys for Real Party in Interest

1 falsified in order to establish the necessary probable cause for the detention and
2 search of Castro.


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4 4. I have reviewed District Attorney records relating to the prosecution of
5 Castro. There was no preliminary hearing or trial. The defendant pled guilty at
6 the time of her arraignment in Municipal Court and based upon the arrest report
7 prepared by Officer O'Grady. She was sentenced to serve 180 days in County Jail as
8 a condition of three years formal probation.

9
10 5. I have been informed by Robbery Homicide Division Task Force Detective
11 Michael Hansen that Sonia Castro is currently a fugitive after having failed to
12 abide by the terms and conditions of her probation. As such, she has not been
13 located or interviewed. Her co-arrestee, Michael Williams (Case No. BA128788)
14 was interviewed and corroborated the fact that the arrest report relating to the
15 arrest of Castro and Williams contained false information. Based upon the
16 statements of Rafael Perez and Michael Williams, it is my belief that there is now
17 substantial doubt as to the credibility of the evidence supporting the conviction.

18 6. I am aware of the details and facts of this investigation, including the
19 statements of Rafael Perez. After a careful legal analysis, the District Attorney
20 believes that due to this new information the case against Sonia Castro (Case No.
21 BA128788) has been hopelessly compromised and a new trial would not satisfy the
22 interests of justice.

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

25 Signed this 31st day of January, 2000 at Los Angeles, California.

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Richard Rosenthal, Declarant