

LAWRENCE TEETER
 State Bar # 83065
 3580 Wilshire Blvd., Suite 1700
 Los Angeles, CA 90010
 (213) 387-4512
 Attorney for Petitioner

COURT OF APPEAL OF THE STATE OF CALIFORNIA
 SECOND APPELLATE DISTRICT

In re

SIRHAN BISHARA SIRHAN,)	Case No. _____
)	
Petitioner on Habeas Corpus,)	PETITION FOR WRIT
_____)	OF HABEAS CORPUS
PEOPLE OF THE STATE OF CALIFORNIA,)	
)	(Super Ct. # A-233421)
Plaintiff and Respondent,)	(Supreme Court Crim. No 14026)
)	
vs.)	
)	
SIRHAN BISHARA SIRHAN,)	
)	
Defendant and Petitioner.)	
_____)	

This is a **Petition for Writ of Habeas Corpus** filed by and on behalf of Petitioner Sirhan Bishara Sirhan challenging his conviction of having committed the crime of murder in violation of Penal Code section 187 (one count) and five counts of assault with a deadly weapon with intent to commit murder.

In support of this Petition, the following is alleged:

1. On June 16, 1972, the California Supreme Court affirmed Petitioner's conviction of having shot and killed Senator Robert F. Kennedy and of assaulting five other persons with the intent to commit murder on June 4, 1968. (People v. Sirhan, 7 Cal.3d 710 (1972)). The Supreme Court also and set aside the jury's death verdict.

2. Petitioner remains in the actual custody of the California Department of Corrections under a sentence of life in prison with the possibility of parole following the Supreme Court's above-mentioned decision.

3. Petitioner's conviction is incompatible with Due Process as guaranteed by the Fifth and Fourteenth Amendment to the United States Constitution along with corresponding provisions of the California Constitution by reason of various instances in which **potentially exculpatory material evidence was destroyed, altered or otherwise suppressed by the prosecution and/or police and in which false evidence was knowingly presented by the prosecution.** The prosecution and/or police:

- a. Destroyed numerous potentially exculpatory crime scene photographs;
- b. Suppressed evidence that multiple weapons were recovered at the crime scene;
- c. Introduced an unauthentic gun into evidence at trial as the assassination weapon;

d. Suppressed evidence that the gun introduced into evidence at trial was not the gun which belonged to Petitioner;

e. Destroyed or otherwise suppressed bullets recovered from victims and substituted inauthentic bullets in place and instead of the true bullets actually recovered from victims;

f. Suppressed additional bullets recovered at the crime scene which would have established the presence of multiple assailants and the discharge of multiple weapons during the shooting of Senator Kennedy;

g. Suppressed evidence at the crime scene by removing and subsequently destroying removed ceiling panels and a door frame immediately after the assassination and then by destroying such removed items before the appeal of Petitioner's conviction could be processed;

h. Suppressed pre-operative photographs taken by the LAPD showing Senator Kennedy's wounds prior to surgery;

i. Suppressed a bullet fragment removed from the head of Senator Kennedy during the autopsy;

j. Suppressed and failed to disclose files compiled by the Los Angeles County Sheriff's Department;

k. Failed to turn over to defense counsel and their agents large amount of potentially exculpatory material evidence;

l. Delayed the disclosure of an exculpatory autopsy report until Petitioner's trial counsel had already formulated a trial strategy resulting in a concession that Petitioner was the assassin of Robert F. Kennedy in opening statements to the jury;

m. Destroyed evidence of a custodial blood test performed upon Petitioner which could have confirmed his level of intoxication, an issue which was material to the only defense presented on Petitioner's behalf at trial;

n. Suppressed and failed to disclose evidence of a pre-trial reenactment that was favorable to Petitioner;

o. Knowingly introduced perjured testimony falsely linking the fatal Kennedy bullet to a gun said to be Petitioner's;

p. Manufactured evidence which created the false appearance of a non-existence identity between test bullets fired from Petitioner's purported gun and a bullet purportedly removed from Senator Kennedy;

q. Destroyed or otherwise suppressed additional items of evidence as more fully detailed in the Memorandum of Points and Authorities accompanying this Petition.

4. Petitioner's right to Due Process as protected by the Fourteenth Amendment of the United States Constitution and by corresponding provisions of the California Constitution is incompatible with Petitioner's conviction of the crime of murder, which is not supported by sufficient evidence in that the distance between Petitioner and Senator Kennedy, his position in front of Senator Kennedy, the angle at which bullets entered the body of Senator Kennedy and the number of times that Senator Kennedy's body or clothing were struck by bullets are all inconsistent with the possibility that Petitioner could have fired any of the shots that struck Senator Kennedy.

5. Petitioner was denied effective assistance of counsel at trial as a result of his attorneys' complete failure to contest Petitioner's status as the assailant of Senator Kennedy, their stipulation to the authenticity of bullets introduced by the prosecution, their failure and refusal to contest the authenticity of the weapon introduced into evidence by the prosecution, their failure and refusal to introduce evidence impeaching prosecution claims to have linked Petitioner to certain writings, their failure and refusal to present evidence pointing toward the presence of other shooters at the crime scene at the time of the assassination and their failure and refusal to investigate the legitimacy of the gun and bullets presented by the prosecution, their failure and refusal to present evidence that Petitioner's mental state was consistent with his having been programmed or manipulated by others, and other acts or omissions more fully detailed in the Memorandum of Points and Authorities accompanying this Petition.

6. Newly discovered evidence not available to Petitioner prior to or during the trial or the appellate process points toward Petitioner's innocence for reasons described above and for additional reasons more fully described in the accompanying *Memorandum of Points and Authorities*.

7. The points raised herein were presented in a substantially similar Petition for Writ of Habeas Corpus filed in the Superior Court of the State of California for the County of Los Angeles on April 21, 1997, and said Petition was denied on April 30, 1997. (See attached copy of the Superior Court's order).

8. With the exception of the petition described in the previous paragraph, the points raised herein have not been presented in any prior petition for collateral relief except that a small number of the above-specified issues have been the subject of cursory and inadequate treatment in one improperly and inadequately prepared Petition filed with the California Supreme Court by former counsel for Petitioner (denied February 13, 1975) and then in a later petition filed on Petitioner's behalf by his brother pro se in the Superior Court and denied on April 23, 1993.

9. Petitioner has no plain, speedy or adequate remedy at law through which to vindicate his constitutional rights as described above and in the accompanying *Memorandum of Points and Authorities*.

10. Petitioner requests an evidentiary hearing to explore the above issues and for reasons more fully described below in the accompanying *Memorandum of Points and Authorities*.

WHEREFORE, Petitioner prays for judgment as follows:

1. For an evidentiary hearing and for issuance of a Writ of Habeas Corpus commanding Petitioner's release from custody and commanding that his convictions be vacated and set aside as to all counts;

2. For such other and further relief as this court shall deem just and proper.

DATED: May 1, 1997

LAWRENCE TEETER
Attorney for Petitioner