

"The job of the prosecutor is not merely to convict people...but also to investigate thoroughly beforehand to ensure the defendant's guilt" – Justice Sotomayor, NY Times October, 18, 2010

There is deep concern about the ongoing miscarriage of justice in the Anand Jon Alexander case. This Indian citizen, who has lived, gone to school, and worked in America for years has clearly been denied due process and fair trial and imprisoned under inhumane conditions since 2007.

The California Appellate Division seems to have blindly relied almost entirely upon the "respondent's" (California attorney General) inaccurate and skewed version of "facts" rather than the actual record in affirming these highly unreliable verdicts.

The trial record clearly shows that the trial was tainted and the bizarre circumstances of rogue jurors, police and prosecutor's misconduct, as well as, conflict-of-interest by defense attorneys that reached unprecedented levels raising serious constitutional issues regarding "first impression".

Both the trial court and Appellate Division seem to have taken the liberty to conjure "theories" and speculated by "filling in the holes" of a grossly incomplete record replete with admitted perjury and lack of factual findings.

Based on independent legal analysis of the facts and records, it is undisputable that:

A) Mr. Alexander Was Denied His Constitutional Right To A Fair And Impartial Jury.

(1) Evidence showed that a sitting juror (#12) violated his oath and sought out extraneous information from multiple sources during the trial.

(2) Juror 12 approached and discussed the case with one or more individuals including Anand Jon's sister. This was not an isolated or accidental situation as, juror 12 planned and acted on his "selfish desires" (as per the LADA's own motions) to "obsessively" (as agreed by the trial court) initiate contact and follow this defendant's sister in different locations and on separate dates.

(3) Evidence showed that the sister, under the fear of severe repercussion to her brother, responded to juror 12's demands and called the phone number she was handed on at least two different occasions during trial.¹

(4) In Nov 2008, the Jury had been 'deadlocked' for over a week during which there were many red flags of the deliberations having been tainted. There were hearings² where jurors accused each other of

¹ Both Juror #12 and the defendant's sister later admitted under oath that they had discussed "the case". The only real disparity was juror 12's claim that these conversations only took place after the trial had concluded. However, the court found based on the evidence (including phone records and an audio recording) that juror 12 was "not truthful", while the defendant's sister's testimony remained un-impeached.

² Coincidentally, it was also during this very time frame that juror 12 put on record that there was "high emotions" and "stress" that the trial judge gave modified Allen charges which almost instantly 'un-deadlocked' the otherwise "hung jury". Also, when defendant's sister refused to comply with juror 12's demands to meet 'alone' the jury began to return "guilty" verdicts in an escalating pattern.

coercion, of “ganging up” on him and even of criminal conduct. At least 3 different jurors (including juror 12) expressed a desire to be “excused”, the prosecution moved to remove juror 12 by specifically accusing him of being “prejudiced”.

(5) Within days of becoming aware of possible juror misconduct Mr. Alexander's counsel, with the co-operation of defendant's sister (who passed a lie-detector-polygraph test), approached the trial court.

Since the trial judge deferred (due to his vacation schedule) taking any action for about another six weeks (upon defense request) a court order was issued that neither party should have any contact with jurors.

(6) In Jan 2009, Juror 12 re-initiated contact with Anand Jon Alexander’s sister, once again offering to “help” and that there was something that went “wrong” with the deliberations. A meeting was scheduled to discuss the specifics. Unbeknownst to juror 12, this meeting was court approved to be surreptitiously audio-recorded, with the co-operation and under observation of both defense and Los Angeles District Attorney Investigators.

(7) Instead, The LADA investigators (with the lead DDA prosecuting this case physically being present in the field in a police car), made a tactical decision to “intercept” Juror 12 just before this court approved meeting.

The LADA team went so far as to tip the juror off by informing him of the criminal “investigation” he was under and offered their support stating that they “did not want him to get into any trouble”. They elicited a promise that he would no longer be in contact with Anand Jon's sister and even allowed juror 12 to leave to get “consultation from “friends” who were police officers.³

(8) Even after thus “sabotaging” the fact-finding procedures the LADA’s office continued to vouch for juror 12, stating that he had “done nothing wrong”, that the juror was willing and looking forward to testifying (at a hearing regarding misconduct), and that it was all Mr. Alexander's sister's fault and “fabrications”. After the damage was done, the LADA’s office claimed that the reason they terminated any further investigation of Juror #12 (or that of any jurors) was because they “believed” it was entirely up to the trial court to take any further steps.

(9) The prosecutors, supervisors and their own investigators were put on the witness stand; they gave inconsistent, contradictory and potentially perjurous accounts as to what had transpired; they were questioned as to why the juror was “intercepted ” (as the defense maintained in violation of the court's prior ruling) and what persons involved in such decisions.

Despite the court’s conclusion of being “troubled” by the actions of the LADA’s office and “not being happy” with the way they [the prosecution] “handled this case“, no one from their team was removed from this case and no one faced any consequences.

³ It is quite significant (with regards to the prejudice prong of a juror misconduct analysis) that a juror who intentionally conceals such material facts; such as having friends and relationships with the police and similar government associations, is presumed to be biased and would be excluded in all likelihood from being a juror on cause (or at least would have given the defense an opportunity to use one of their exclusionary challenges). It is clear that juror 12 lied at voir-dire and committed perjury in his sworn questionnaire by denying any such “friendships” with law enforcement.

(10) By denying the motion to "recuse" the DA's office, the obvious conflict of interest was allowed to worsen and further compromise the juror misconduct hearings, whereby the very same LADA's office (a party to this case, representing "the people"), who had just been subjected to weeks of scrutiny for their own transgressions and misconduct; could now retaliate target any and all witnesses and even hold the threat of criminal charges over the head of those like juror 12⁴

(11) To further thwart the truth seeking proceedings, the LADA's office refused to grant juror #12 immunity. In fact quite the contrary, to their own prior assertions the LADA's office no longer "vouched" for or even bothered to call juror 12 as a witness.

(12) After being repeatedly caught in perjury and impeached by his own words (in an audio recording and phone records); juror 12 was "allowed" to plead the fifth to "not further incriminate himself".

Mr Alexander's sister, on the other hand (who was called by the prosecution), remained credible and her version of events was unimpeached.

(13) The LADA prosecutors neither called juror 12 as their witness nor chose to cross-examine him in any manner whatsoever thus making no attempt to (much less) rebut the "presumed prejudice" as the court declared there was "juror misconduct" ..."no doubt about it" and that juror 12 had, in fact, committed "perjury"

(14) It is noteworthy that after essentially silencing juror 12 the LADA's office chose to file NO criminal charges against him. In fact, the trial judge went on to "punish" this perpetrator and (inexplicably) the victim (Mr Alexander's sister) with the very same "sentence", offering no relief whatsoever to Anand Jon Alexander himself.

(15) Between the denial of a new trial (on Jul 6 2009) and sentencing (Aug 31 2009), Anand Jon Alexander entered into pro se status (due to ineffective conflict of interest uncovered with his counsel)⁵ presented substantial additional and newly discovered evidence of juror misconduct⁶ and police and prosecutorial misconduct (including Brady violations).

However the trial judge refused to consider or even do any findings or hold evidentiary hearings in these matters.

⁴ The record also shows the same LADA's office had in fact made such threats to "intimidate" defense witnesses to prevent them from testifying, and even targeted a defense attorney during trial. LADA spokesperson also told the media of potential charges against Juror 12.

⁵ The lead attorney's daughter (who was clearly in charge of some of the most crucial aspects of the defense including motions and investigations) was exposed to have secretly (without knowledge or consent of Mr Alexander) applied for and even become a paid Deputy District Attorney for the same LADA's office (i.e. the opposing party in this case) during the case.

⁶ Juror 12 had also "discussed" the case with additional individuals (during the trial) including his tenant; Furthermore, evidence of juror 12 having been exposed to highly inflammatory media stories surfaced and was un-rebutted by the prosecution.

(16) Even after acknowledging the multiple unresolved issues⁷ and the fact that Anand Jon Alexander had no criminal prior history of crime (except one non-violent misdemeanor that was expunged / removed from his record); the trial judge sentenced him to the extreme 59 (fifty nine) years to Life.

B) Mr Alexander Was Further Prejudiced By Police & Prosecutorial Misconduct:

(1) The record is clear that substantial amounts of Brady⁸ material (Impeachment & potentially exculpatory) had been intentionally withheld or unpreserved by deliberate indifference

In violation of the sixth amendment's right of confrontation, (and cross examination) the prosecution was allowed to present witnesses at trial, without their prior sworn testimony (or discovery) being made available to the defense. These "uncharged" allegations and testimony were far more inflammatory⁹ than the actual charged counts themselves (a violation of the 1108 rule)¹⁰

(2) Use of false testimony & inflammatory statements:

- a) Alleging "pre-pubescent child-porn" when there was none.
- b) Insinuating illegal drug use (and "laced drinks") by Mr Alexander in direct violation of the court ruling, not to do so (as there was no proof of any such "drugging")
- c) Accusing Anand Jon of being a 'fake designer', also in direct violation of court's ruling, not to do so.
- d) Attacking Mr Alexander's 'truthfulness' and character; his looks, physical attributes, hygiene¹¹ (although he presented good character evidence nor testified himself).
- e) Attacking Mr Alexander's religious¹², spiritual, cultural and racial background, despite explicit court ruling, not to do so or even 'delve' into these "areas".

⁷ The entire issue of "ineffective assistance of counsel" will be addressed through an appeal petition to be filed later. The staggering amount of "missing" discovery (over 2000 pages) as well as Brady violations were "noted" on record but no actual findings were done, while the outstanding additional 'juror misconduct' issues were essentially circumvented and ignored even after juror 12 (at his sentencing) admitted that the trial judge's perception of what happened was not correct.

⁸ Including, but not limited to, witness prior inconsistent statements; probation & criminal records; acts of moral turpitude (quite contrary to the "naive & innocent small town girls" as portrayed to the jury many were involved in sex trade, escort, porn, stripping and prostitution, illegal computer hacking of Mr Alexander's computers & attorney client material, theft, cyberbullying); prior similar (true or false) allegations of sexual assault by other men; Illegal drug use.

⁹ Despite a court ruling to NOT elicit testimony or state any "physical injury" as there was no medical forensics the prosecution repeatedly used 1108 witnesses to claim gruesome details of injury when there was none

¹⁰ The undue time consumption and confusion caused by the trial court allowing about half a dozen such 1108's is clearly reflected in the jury's struggles and inquiries as well as the prosecutions summations and judges own erroneous instructions which 'swapped' counts with witnesses and mixed up the very elements of the charges.

¹¹ the prosecution kept referring to how "unholy" and "unnatural" he "smelled", while prosecution witnesses made racist comments like "curry smelling dick", "Indiahead", "brown dick sandnigger"

¹² the prosecution embarked on vicious and outrageous theories that were not supported by facts; they injected "sadism", "narcissism" into "sex acts"; they professed that he "got off spiritually" and how "significant" it was that he "meditated" and "sat cross-legged on the floor" as part of "rituals". Prosecution even improperly compared Mr. Alexander to a Catholic priest sexually abusing 'altar boys (i.e. pre-pubescent, homosexual crime); to a Father's incest with a daughter; and as an

f) Discrediting and humiliating defense attorneys by class and gender bias. The prosecution called the defendant and his “4 male” attorneys “misogynists” who “hated and objectified women”. prosecution said that the defense attorneys “did not know what they were talking about” in this case; how they were trying to “fool”, “trick” and use “smoke and mirror” tactics to deceive the jury as they were a “high priced” team hired by a “rich” defendant “to get their client off”.

(3) The prosecution falsely bolstered the credibility of their own witnesses, while attacking and intimidating those who were not conclusive to their agendas.

a) Besides making multiple 'excuses' and speculations (of facts not on record) of "personal belief" to vouch for their witnesses; the prosecution emphasized that almost none of these women even had any contact with each other and that no one had any "motives" (including publicity or money)¹³

b) Evidence and investigations reveal there was witness coaching) intimidation and even threats that drastically derailed Mr Alexander's right to present a defense. Even after a defense attorney was threatened, and another defense witness testified to being “intimidated” by LADA lead prosecutor, supervisor and investigators (with guns) surrounding and threatening her in court (to “not testify against them”); no one on the prosecution's side faced any consequences.

(4) The LADA's office launched a massive media campaign infecting the jury pool with inaccurate and highly inflammatory content¹⁴

C) Mr. Alexander Was Denied His Constitutional Right To Effective Assistance Of Counsel

Incredibly, the lead attorney's closing argument “urged” the jury to find his own client “guilty”. The same lead attorney's daughter (in charge of motions and significant research, appearances, investigations) was later (post-trial) exposed¹⁵ to have during active case, applied for and actually become a Deputy District Attorney (for the very same LADA's office), which was an obvious and irreparable conflict of interest and compromise of loyalty.

It is also clear that the trial judge was aware of another defense attorney having been threatened by the prosecution (accused of undefined criminal conduct) yet did not findings nor advised Mr. Alexander as to the potential conflict of interest during trial, nor secured a waiver. (Curiously, despite dozens of credible and

outsider who had a “god-complex” belief to be “above” the “rules of the United States”, “community”, targeting “white” / “Caucasian” women exclusively.

¹³ Evidence showed that the police had in fact “instructed” prosecution witnesses to “hold off” on their publicity and money seeking civil suits until “after the trial”(including some who were represented by high profile civil attorney Gloria Allred). Furthermore there was substantial Brady materials of the extensive exchanges and 'scripting' between prosecution witnesses, which was mostly detected only after trial.

¹⁴ There were multiple press conferences and media alerts organized by the prosecution; and even admissions of witnesses being “directed” to the press. The record is clear that the same prosecutors misled the jury that their witnesses did not want publicity or sell stories when in fact the LADA's Office dictated the timing, schedules and availability of these witnesses to the press (most of which was only revealed post trial.

¹⁵ This 'sworn officer of the court' faced no consequences, and the trial judge did no findings nor set up any “ethical walls” or advisement to Mr. Alexander

available favorable witnesses, essentially no defense was presented, one defense attorney threatened to walk out if Mr. Alexander testified.

D) There is no indication of any representation of the South Asian Indian community (which is quite populous in the Los Angeles area) in either the Grand jury or the trial jury. There also appears to have been no inquiry or instructions with regards to the potential for racial bias in a case of this nature.¹⁶

E) There appears to have been a "constructive amendment", whereby the original case and theory as presented to and voted upon by the grand jury had been altered significantly (in volume and "fatal variance" in theory) at the eve of trial.

Even the trial judge points out to the prosecution how their request to "amend" was not followed through or applicable and yet later repeatedly informed the jury that this was an "amended indictment"¹⁷.

Clearly, this was NOT a case of overwhelming "guilt", nor was it an example of a fair trial, as is constitutionally guaranteed. The one and only first degree "rape" charge that remained was only returned after the week plus hung jury was "un-deadlocked" (immediately after the judges modified Allen charges and right) around the tainted deliberations that lead to juror misconduct being declared.

A closer look at facts also reveals that the prosecution's own expert witness and medical forensics favored Mr. Alexander's innocence¹⁸ that there was no sign of use of force, no trauma and no "assault related findings". There was also no corroborating eye witnesses, and the case hinged entirely on the "credibility" of the complainant; a complainant who had set up an "entrapment-themed" website, who had been caught in perjury¹⁹ regarding her relationship with Mr. Alexander as being "strictly professional" although her own e-mail correspondence to him showed otherwise. This complainant was clearly unreliable and admitted (showed by medical tests) the *self-consumption* of illegal drugs just prior to the alleged incident.

There are simply too many anomalies and red flags in this case to pretend that the Anand Jon Alexander trial even remotely comported with the due process entitled to ALL defendants in a criminal case, which includes the accused from minorities (like us South-Asian Indians) in America.

D) Significant Change of Circumstances Through New York Case Further Compel Anand Jon Alexander Exoneration.

In the proceedings in New York are admittedly intertwined with California. We were informed of significant changes of circumstance in New York which retroactively compromised the very foundation of the California case along with its clearly tainted vertex.

¹⁶ The prosecution emphasized that the defendant was a minority, an outsider to the "community" of the United States who allegedly targeted "white" women with "violent" crimes.

¹⁷ there is no record of any formal procedures of "amending" an indictment having occurred.

¹⁸ While inadmissible in court, it is still noteworthy that Anand Jon Alexander volunteered to and went on to pass a polygraph / lie-detector test further proving his innocence. (the complainant declined the offer to do the same)

¹⁹ The jury was denied the opportunity to view a critical surveillance tape. which directly contradicted and would have impeached this complainant's version and post behaviour as this footage had been (as revealed in post-trial proceedings) unlawfully seized and withheld by the lead detective (Beverly Hill's Police).

As of August 2012, about half of the New York charges have been "dismissed" in the New York DA has indicated even more will soon be dropped. For example, the allegation of "drugging" was a major theory of the multi-jurisdiction prosecution. It was repeatedly introduced during the California trial, in violation of the court's ruling not to do so. However, the NYDA has now acknowledged that there was no evidence of any "drugging" to substantiate the charges; as a result, the NYDA dismissed those counts including all charges involving LADA key witness Holly G. Unfortunately, Holly G was the sole corroborating percipient witness that led to the one and only "rape" conviction in the California case despite her tainted testimony, dismissal by prosecutors and fraudulent erroneous drugging allegation.

Furthermore, in January 2012, the New York Supreme Court following an "in-camera" analysis looking for "significant inconsistencies" found a "compelling and particularized need" to "unseal" the New York grand jury testimony of Tara S and Kristi W specifically for appellate purposes.

It is undeniable that the constitutional protections under the 6th Amendment right of confrontation (*Brady v Maryland*) were violated during the California trial by allowing highly prejudicial witness testimony without allowing Anand Jon access to the witness' New York grand jury or discovery for cross-examination.

Notably, Kristi W is the only complainant in New York still alleging first-degree rape; she claims that (about 10 years ago) she was "intimidated" into a sexual relationship with Mr. Alexander under the fear of "Mafia death threats" to her life. Now, that same allegation of "witness intimidation" which she dramatically testified to during the California trial was dismissed in New York.

If these late "dismissals", "amendments" and materially inconsistent NY Grand Jury minutes had been made available to the defense before the damage was done at the California Trial, these witnesses would not only have been substantially impeached but the very outcome of that trial would probably have been favorable to Anand Jon Alexander.

Sincerely,

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