

Nos. 99-99018, 00-99001

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

STANLEY T. WILLIAMS,
Petitioner-Appellant,

v.

JEANNE WOODFORD, WARDEN,
Respondent-Appellee.

DEATH PENALTY CASE

On Appeal from the United States
District Court for the Central District
Of California, Case No. CV-89-00327 SVW

The Honorable Stephen V. Wilson

**MOTION FOR LEAVE TO FILE AMICI CURIAE BRIEF IN SUPPORT OF
PETITIONER'S PETITION FOR REHEARING AND SUGGESTION FOR
REHEARING EN BANC**

AMICI CURIAE

**AMERICAN CIVIL LIBERTIES UNION OF NORTHERN CALIFORNIA
ARAB AMERICAN ATTORNEYS ASSOCIATION
ASIAN LAW CAUCUS
CHINESE FOR AFFIRMATIVE ACTION
ELLA BAKER CENTER FOR HUMAN RIGHTS
LAWYERS' COMMITTEE FOR CIVIL RIGHTS OF THE SAN FRANCISCO BAY AREA
MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATIONAL FUND
NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE
SAN FRANCISCO LA RAZA LAWYERS ASSOCIATION
SOUTHERN CHRISTIAN LEADERSHIP CONFERENCE OF GREATER LOS ANGELES**

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ACLU Foundation of Northern California
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**MOTION FOR LEAVE TO FILE AMICI CURIAE BRIEF
IN SUPPORT OF PETITIONER’S PETITION FOR REHEARING
AND SUGGESTION FOR REHEARING EN BANC**

Pursuant to Rule 29 of the Federal Rules of Appellate Procedure, the American Civil Liberties Union of Northern California, Arab American Attorneys Association, Asian Law Caucus, Chinese for Affirmative Action, Ella Baker Center for Human Rights, Lawyers’ Committee for Civil Rights of the San Francisco Bay Area, Mexican American Legal Defense and Educational Fund, National Association for the Advancement of Colored People, San Francisco La Raza Lawyers Association, and Southern Christian Leadership Conference of Greater Los Angeles respectfully request leave of this Court to file the accompanying amici curiae brief in support of Petitioner Stanley Williams’s Petition for Rehearing With Suggestion for Rehearing En Banc.

Amici believe their brief should be considered because of the exceptional importance, and widespread impact upon the fair administration of justice, of that portion of this Court’s September 10, 2002, decision which addressed the relevant circumstances in determining whether a prosecutor acts with racial animus in the selection of a capital case jury.

IDENTIFICATION AND INTEREST OF AMICI

The nature, functions and constituencies of each of the amici organizations provide them with a particular interest in that portion of the decision addressing the

constitutional command that bias in the jury selection process be eliminated. Amici are all dedicated to making a reality “the promise of equality under the law – that all citizens, regardless of race, ethnicity, or gender, have the chance to take part directly in our democracy.” *J.E.B. v. Alabama*, 511 U.S. 127 145-46 (1994). Consequently, in light of the panel’s resolution of petitioner’s claim that the prosecutor was motivated by race in his selection of petitioner’s capital jury, amici respectfully request permission to file this brief, limited to the issue of whether petitioner sufficiently raised an inference that his jury was “chosen by unlawful means at the outset.” *Powers v. Ohio*, 499 U.S. 400, 413 (1991).

The American Civil Liberties Union of Northern California is the regional affiliate of the American Civil Liberties Union ("ACLU"), a nationwide, nonprofit nonpartisan membership organization with over 300,000 members. The ACLU and its affiliates are dedicated to the principles of liberty and equality embodied in the Constitution, and have participated in numerous cases in state and federal courts involving claims of racial discrimination and bias in violation of the equal protection of the laws.

The Arab American Attorneys Association ("AAAA") is an organization comprised of lawyers and other legal professionals in the San Francisco Bay Area. AAAA is dedicated to the provision of affordable legal services to members of the Arab community, and serves as an advocate for that community on matters

affecting their civil rights. Over the past year, AAAA has assisted in the provision of legal services to members of our community who face a jury. The AAAA strongly believes that a fair and representative jury is key to ensure the constitutional rights of the Arab American community.

The Asian Law Caucus is a nonprofit public interest law office based in San Francisco representing individuals and organizations on civil rights and other issues impacting low income and disadvantaged communities. For over thirty years the Asian Law Caucus has represented Asian Americans in particular in both civil and criminal proceedings—proceedings in which a racially representative jury, or the lack thereof, has often defined the quality of justice received.

Chinese for Affirmative Action (“CAA”) is a 33-year-old, membership-based nonprofit organization whose mission is to defend and promote the civil rights of Asian Americans within the context of advancing a multiracial democracy in the United States. Throughout its history, CAA has engaged in policy advocacy and litigation to eliminate racial bias from government at local, state, and federal levels. One of the areas central to CAA's goals is to advocate for equal access to government, including the judicial system.

The Ella Baker Center for Human Rights (“the Center”) documents, exposes and challenges human rights abuses in the United States criminal justice system.

Included in the Center's struggle against the criminal justice system's devastating inequities and shortcomings is racial bias in juror selection.

The Lawyers' Committee for Civil Rights of the San Francisco Bay Area ("Lawyers' Committee") is a civil rights and legal services organization devoted to advancing the rights of people of color, low-income individuals, immigrants and refugees, and other underrepresented persons. The Lawyers' Committee is affiliated with the Lawyers' Committee for Civil Rights Under Law in Washington, D.C. that was created at the behest of President Kennedy in 1963. In 1968, the Lawyers' Committee was established by leading members of the private bar in San Francisco. Throughout its history the Lawyers' Committee has dedicated itself to ensuring that our legal processes are carried out without the taint of racial bias. To allow such bias to influence the selection of a jury thwarts the fulfillment of this important goal.

The Mexican American Legal Defense and Educational Fund ("MALDEF") is a national civil rights organization established in 1968. Its principal objective is to secure, through litigation, advocacy, and education, the civil rights of Latinos living in the United States. MALDEF has litigated numerous cases under the Constitution to protect the right and ability of Latinos to have equal and fair access to the judicial process.

The National Association for the Advancement of Colored People (“NAACP”), established in 1909, is the nation’s oldest civil rights organization. It has state and local affiliates throughout the nation. The fundamental mission of the NAACP is the advancement and improvement of the political, educational, social and economic status of minority groups; the elimination of prejudice; the publicizing of adverse effects of discrimination; and the initiation of lawful action to secure the elimination of age, racial, religious and ethnic bias. The NAACP has appeared before courts throughout the nation in numerous civil rights cases. The NAACP has challenged the social and economic impact of discrimination. In addition the NAACP has called for the enactment of statutes that include the right to pursue both disparate treatment and disparate impact claims.

San Francisco La Raza Lawyers Association ("SFLRLA") is a nonprofit organization comprised of attorneys who are in public-interest law and private practice. SFLRLA was founded during the Civil Rights movement in the United States and is affiliated with California La Raza Lawyers Association and the Hispanic National Bar Association. The fundamental goals of SFLRLA are to advance the causes of justice and equality and to provide opportunities for the people in the Latino community. The constitutional rights of due process of law and equal protection for a fair trial encompass the goals that SFLRLA seeks to

advance by ensuring the right to a jury trial by one's peers and the equal opportunity to be on a jury.

The Southern Christian Leadership Conference of Greater Los Angeles is a regional affiliate of the Southern Christian Leadership Conference (“SCLC”), an organization with roots that extend deeply into the African-American social and political experience. The SCLC advocates justice for all persons, regardless of social status, religious beliefs, gender, sexual orientation or ethnicity, and works to continue the historic struggle for human and civil rights. The SCLC of Greater Los Angeles struggles against discrimination in employment, housing, education and health services and works for full political participation for all members of society. Exclusionary jury practices undermine full political participation.

In their brief, amici explain how the panel’s decision is in conflict with United States Supreme Court and Ninth Circuit precedent, and that the issue is of such exceptional importance that the United States Supreme Court recently agreed to review a decision of the Court of Appeals for the Fifth Circuit that involved the same issue, with a resolution similar to that reached by the panel in petitioner’s case. Although amici file their brief on behalf of petitioner, because it is petitioner who is seeking review of the legal issue, amici are truly friends of the Court because both parties to the litigation, as well as the Court, endorse the notion that

“equal opportunity to participate in the fair administration of justice is fundamental to our system of democracy.” *J.E.B. v. Alabama*, at 145.

For these reasons, amici respectfully request that their Brief in Support of Petitioner Williams’s Petition for Rehearing and Suggestion for Rehearing En Banc be filed and considered by this Court.

DATED: November 5, 2002

Respectfully Submitted,

ALAN L. SCHLOSSER, ESQ.
Attorney for *Amici Curiae*:

American Civil Liberties Union of
Northern California
Arab American Attorneys Association
Asian Law Caucus
Chinese for Affirmative Action
Ella Baker Center for Human Rights
Lawyers’ Committee for Civil Rights
of the San Francisco Bay Area
Mexican American Legal Defense and
Educational Fund
National Association for the Advancement
of Colored People
San Francisco La Raza Lawyers Association
Southern Christian Leadership
Conference of Greater Los Angeles

PROOF OF SERVICE

I, Cynthia D. Williams, declare that I am a citizen of the United States, employed in the City and County of San Francisco; I am over the age of 18 years and not a party to this action or cause; my current business address is 1663 Mission Street, Suite 460, San Francisco, California 94103.

On November 6, 2002, I served a true copy of the following documents:

MOTION FOR LEAVE TO FILE AMICI CURIAE BRIEF IN SUPPORT OF PETITIONER'S PETITION FOR REHEARING AND SUGGESTION FOR REHEARING EN BANC

on the following by placing a true copy thereof in a sealed envelope, with first class postage thereon fully prepaid, in the United States mail at San Francisco, California, addressed as follows:

Maria Stratton
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Lisa Brault, Deputy Attorney General
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San Anselmo, CA 94960

Attorneys for Petitioner

Attorneys for Respondent

I declare under penalty of perjury that the foregoing is true and correct.
Executed on November 6, 2002, at San Francisco, California.

Cynthia D. Williams