No. 18-1472

In the Supreme Court of the United States

IN RE CHRISTOPHER HADSELL

On Petitions for Writs of Mandate and/or Prohibition and Other Extraordinary Relief to the Supreme Court of California

PETITION FOR REHEARING

Service on California Attorney General Required by Cal. Rules of Court, rule 8.29(c)

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III. PETITION FOR REHEARING

Pursuant to U.S. Sup. Ct. R., rule[1] 44, Petitioner, ("**Hadsell**"), respectfully petitions for rehearing of this Court's 10/7/19 Order[2] ("**SCOTUS 10/7/19 Order**") denying Hadsell's Writ of Mandamus docketed 5/24/19 ("**Writ of Mandamus**").

A. REQUEST FOR OFFICIAL COURT RESPONSE REGARDING WRIT OF MANDAMUS

A writ of mandamus (cf. SCOTUS Rule 20) is not a writ of certiorari (cf. SCOTUS Rules 10-16).

SCOTUS Rule 16 authorizes the Clerk of the Court ("**Clerk**") to act on behalf of this Court ("**SCOTUS**") regarding a writ of certiorari's disposition. However, no legal authority exists for the Clerk to act similarly regarding a writ of mandamus' disposition.

Hadsell hasn't received any official record from SCOTUS directing the Clerk to enter and publish any decision; nor any record that SCOTUS has provided any review of the matters, or taken any action, in this case.

Therefore, Hadsell respectfully requests an official response from SCOTUS regarding all actions taken/decisions made in this case.

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[1] Subsequent references to the U.S. Sup. Ct. R. will be designated "**SCOTUS Rule**".

[2] As stated in the Clerk of the Court's letter dated 10/7/19 ("**Clerk's 10/7/19 Ltr**").

B. GROUNDS FOR REHEARING

1. THE FACTS ARE UNDISPUTED

The pertinent facts are:

- Ms. Brown ("**Brown**"), a layperson, in violation of the unauthorized practice of law, filed an ***ex-parte*** motion ("**8/8/18 MOT**") on Ms. Isham's behalf.
- The 8/8/18 MOT requested Judge Mockler ("**Mockler**") of the Superior Court of California, County of Contra Costa ("**Trial Court**") to enter an amended judgment to replace the final 9/20/16 Judgment entered nearly two years earlier.
- Brown mailed the 8/8/18 MOT directly to Mockler bypassing the Law Clerk's Office. Therefore, there was: no filing entered in the record, no process of service made, no filing fee paid, and no hearing set, or held.
- Mockler has a history of being overturned[3] because she:
    - fails to hold required hearings;
    - orders litigants to make payments in violation of law; and
    - acts without personal jurisdiction "("**PJ**") and/or subject matter jurisdiction ("**SMJ**").
- Consistent with her history, Mockler violated Hadsell's Equal Protection and Due Process rights

[3] Mockler's actions were so egregious, the attorney general sided with the appellants rather than defend her.

because she:

- denied ***any*** access to the Trial Court;
- failed to hold ***any*** hearings;
- ordered Hadsell to make payments in violation of law;
- made orders unsupported by ***any*** evidence;
- acted without PJ and SMJ.

- California's Appellate Courts (Court of Appeal of the State of California, First Appellate District and Supreme Court of the State of California, "**Cal. Supreme Ct.**"; collectively, "**Cal. Appellate Cts**") violated Hadsell's Equal Protection and Due Process rights because they:
  - Failed to provide ***any*** review of Mockler's actions by denying Hadsell access to Cal. Appellate Cts by, inter alia, applying Vexatious Litigant law that violates the U.S. Const. ("**Constitution**").
- The Clerk states SCOTUS denied the Writ of Mandamus.

2. SCOTUS IS *THE FIRST*, AND *ONLY*, OPPORTUNITY FOR DUE PROCESS AND JUSTICE

"[E]xtreme cases are more likely to cross constitutional limits, ***requiring*** this Court's intervention and formulation of objective standards. This is ***particularly true when due process is violated***.", *Caperton v. A.T. Massey Coal Co., Inc.* (2009) 556 U.S.

868, 887 (emphasis added). The Due Process Doctrine is, after all, especially meant to protect the rare/unusual case where justice is denied.

This is an "extreme" case that "requires this Court's intervention" for at least four reasons:

- ***No due process whatsoever***;
- Extreme[4] legal errors that "cross constitutional limits" due to state law that is unconstitutional—both substantively and as-applied;
- The unconstitutional legal errors are irrefutable because the record is unequivocal; and
- Because no filings were permitted, no hearing held, and no review provided, unlike normal state-court appellate review, the issues before SCOTUS are the first, and only, opportunity for due process and justice.

As discussed next, even if *Caperton* didn't require SCOTUS' intervention, because SCOTUS interprets Congress' state-court-appellate-review governance to mean that SCOTUS has ***exclusive*** jurisdiction to review state-court decisions, SCOTUS' failure to intervene violates U.S. Const. amend. I ("**1st Amend.**") because it denies Hadsell access to ***any*** federal court thereby violating his, "right... to petition the [federal] Government... for a redress of grievances" via the federal judiciary.

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[4] Inter alia, lack of PJ and SMJ that make judicial actions taken below extrajudicial, and therefore, void on their face; and the trial judge and Cal. Supreme Ct. Chief Justice refused to recuse themselves despite personal financial interests in the case (the same "extreme case" issue in *Caperton*).

3. SCOTUS VIOLATES THE 1ST AMEND. IF IT FAILS TO PROVIDE ANY REVIEW

a. THE CONVENTIONAL WISDOM THAT SCOTUS CAN DENY REVIEW TO ALL STATE-COURT APPELLATE CASE IS FALSE

"[I]nstead of turning a blind eye to the places where conventional wisdom and truth don't meet, pay particular attention to them.", Paul Graham, Hackers and Painters 144 2004.

i. Here, Conventional Wisdom and Truth Don't Meet

The conventional wisdom that SCOTUS has discretion to deny review to any state-court petition it pleases, doesn't meet with the truth that, "Congress shall make no law... abridging... the right of the people... to petition the Government for a redress of grievances.", 1st Amend.

Because such a claim is both: i) an important issue, and ii) contradicts conventional wisdom, it requires careful explanation from first principles.

ii. SCOTUS' Jurisdiction

SCOTUS' ***original*** jurisdiction is ***created***, and ***governed***, by the Constitution (U.S. Const. art. III ("**Art. III**"), *California v. Arizona* (1979) 440 U.S. 59, 65).

SCOTUS' ***appellate*** jurisdiction is likewise ***created*** by the Constitution (Art. III, §2, cl. 2); however, it is ***governed*** by Congress (*Id.*, *Ex parte McCardle* (1868) 74 U.S. 506, 512-13). Notwithstanding, ***Congress can only govern*** SCOTUS' appellate jurisdiction ***as proscribed by the Constitution***.

iii. Appellate Review Definition

As Prof. Oldfather provides, "Most depictions of appellate courts suggest that they serve two core functions: the creation and refinement of law and the correction of error.", Chad M. Oldfather, *Error Correction* (2010) 85 Ind. L.J. 49, 51.

Prof. Steinman describes the appellate courts' two core functions to involve, "re-examin[ing] fact-findings, conclusions of law, applications of law to fact, and exercises of discretion under appropriate standards of review.", Joan Steinman, *Appellate Courts As First Responders: The Constitutionality and Propriety of Appellate Courts' Resolving Issues in the First Instance* (2012) 87 Notre Dame L. Rev. 1,521, 1,521-1,522.

Prof. Steinman summarizes an appeal, "to designate any attempt to have a higher court review the factual or legal findings of a lower tribunal.", *Id.*, 1,546.

iv. Why SCOTUS' State-Court Appellate Review Is Mandatory

1) Current State of SCOTUS' State-Court Appellate Review Pursuant to Constitutional Congressional Governance

As Art. III, §2 discussed *supra* provides, and *Kokkonen v. Guardian Life Ins. Co. of America* (1994) 511 U.S. 375, 377 reaffirms, ***only Congress*** can govern SCOTUS' state-court appellate review. Specifically, SCOTUS' jurisdiction cannot be "expanded by judicial decree", *Id.*

Title 28 of the U.S. Code ("**Title 28**") codifies all Congressional acts regarding the Federal Judiciary and Federal Judicial Procedure.

The statute governing SCOTUS' state-court appellate review is 28 U.S.C. §1257 ("**§1257**").

Appendix A, "28 U.S.C. §1257 Historical Revisions", p. 1a, traces every version of §1257 (from inception in the Judiciary Act of 1789, 1 Stat. 73 ("**Judiciary Act 1789**") to today. Appendix A shows that Congress has never conferred ***exclusive jurisdiction*** for state-court appeals upon SCOTUS.

Congress knows how to provide a federal court with "exclusive jurisdiction". Indeed, Title 28 discusses exclusive jurisdiction in three sections[5]–none confer exclusive jurisdiction for state-court appellate review upon SCOTUS.

2) Current State of SCOTUS' State-Court Appellate Review Pursuant to Unconstitutional Case Law

Despite Congress never conferring exclusive-state-court appellate review upon SCOTUS, in *Rooker v. Fidelity Trust Co.* (1923) 263 U.S. 413, 416[6], SCOTUS violated the constitutional separation of powers principles by arrogating Congressional power when SCOTUS:

- ***Expanded*** its appellate review to provide ***exclusive jurisdiction*** to itself for state-court appellate review; and concomitantly
- ***Contracted*** all federal inferior courts' ("**FICs**") state-court appellate review jurisdiction by ***removing concurrent jurisdiction*** for state-

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[5] Sections 1251, 1292, and 1334..

[6] Further refined in *District of Columbia Court of Appeals v. Feldman* (1983) 460 U.S. 462 thereby creating the Rooker-Feldman Doctrine.

court appellate review from all FICs.

v. SCOTUS' Exclusive-State-Court Appellate Review, Combined With the Case Selections Act, Makes State-Court Appellate Review Mandatory

1) Brief History: SCOTUS' Case Backlog

For over 200 years, SCOTUS reviewed every state-court petition filed.

As the nation grew, SCOTUS' petitions grew—creating an insuperably large case backlog.

Congressional attempts to address the backlog included:

- Enlarging the circuit courts (Circuit Court of Appeals Act of 1891, 26 Stat. 826);
- Providing discretionary review where SCOTUS didn't have exclusive jurisdiction (Judiciary Act of 1925, 43 Stat. 936, "**Judiciary Act 1925**", led by former Chief Justice, and President, Taft); and
- Attempting to eliminate ***all*** mandatory appellate review—except district-court, three-judge panels, Supreme Court Case Selections Act of 1988, 102 Stat. 662, "**Case Selections Act**".

2) If SCOTUS Fails to Provide Mandatory Appellate Review for State-Court Decisions, It Violates the 1st Amend.

Although SCOTUS' creation of exclusive-state-court appellate review for itself is unconstitutional, that is today's situation.

Therefore, the only avenue for petitioning the federal judiciary regarding a state-court judgment is via petitioning SCOTUS.

Notwithstanding the Judiciary Act 1925, as discussed *supra*, SCOTUS voluntarily maintained mandatory state-court appellate review.

Only after SCOTUS sought, and received, further appellate review discretion with the Case Selections Act did SCOTUS treat state-court appellate review as discretionary.

Thus, because SCOTUS is the only avenue to petition the federal government regarding a state-court judgment, whenever SCOTUS denies state-court appellate review, it denies the fundamental right to petition the federal courts.

In turn, this makes the Case Selections Act unconstitutional by violating the 1st Amend.'s requirement that, "Congress shall make no law... abridging... the right of the people... to petition the Government for a redress of grievances."

Regarding state-court adherence to SCOTUS' jurisprudence, instructing the states that, "[I]f a Bill of Rights protection is incorporated, there is no daylight between the federal and state conduct it prohibits or requires.", *Timbs v. Indiana* (2019) 139 S.Ct. 682, 687 (footnote elided), does no good whatsoever if state courts can abuse the Bill of Rights with impunity because there is no federal government redress of grievances enforcing SCOTUS' jurisprudence.

4. THE SOLUTION TO MANDATORY STATE-COURT APPELLATE REVIEW IS TO EXPAND COURT RESOURCES

Art. III, §1 provides for only, "one supreme Court."

Thus, as discussed *infra*, while the U.S. has experienced phenomenal expansion, today's SCOTUS has contracted from its historical high-water mark.

a. DRAMATIC U.S. EXPANSION VS. SCOTUS' CONTRACTION

i. U.S. Geography/Population/States Expansion

The U.S. has increased its:

- Geography over 800%;
- Population over 13,650%; and
- States by 285%

ii. Congressional Expansion

Congress and staff increased over 17,000%.

iii. Executive Expansion

The Executive, excluding the military, increased over 1,300,000%

iv. FICs Expansion

FICs increased over 700%, and judges increased over 9,000%.

v. SCOTUS Contraction

The number of justices is governed by Congress.

The number has varied between 6 and 10. Thus, the current nine justices represent a 10% contraction from the historical high.

Even including law clerks, SCOTUS' growth is vastly

dwarfed by the growth in Congress and the Executive.

b. SCOTUS MUST CREATE MANDATORY-STATE-COURT APPELLATE REVIEW TO PREVENT VIOLATION OF THE 1ST AMEND.

Because the combination of SCOTUS' exclusive-state-court appellate review and the Case Selections Act violates the 1st Amend., at least one of the two issues must be eliminated.

i. Eliminating SCOTUS Exclusive-State-Court Appellate Review

Two methods can eliminate SCOTUS exclusive-state-court appellate review.

1) First Method:

SCOTUS can revert to its pre-1988 practice of voluntarily providing mandatory-state-court appellate review.

However, this solution places the burden of providing review solely upon SCOTUS—not the best choice relative to the several advantages the second method provides.

2) Second Method:

SCOTUS can overrule its unconstitutional Rooker-Feldman Doctrine.

This method has several advantages:

- It follows the Constitution's design: It uses the FICs to shoulder the burden of an otherwise unworkable load for SCOTUS;
- Federal-based injury doesn't usually occur in a

state-court case until after the case is over because until then, the state can act to correct the injury. Therefore, the injury for a state-court appellate review isn't developed by a trial court. Instead, a state-court appellate review is actually a trial of a federal-based injury after the fact. Yet the record is stale, and only indirectly related to the injury.

- It overrules unconstitutional case law where stare decisis is at its weakest.[7]
- Restores/maintains faith in the Judiciary.[8]

ii. Eliminating Unconstitutional Portion of the Case Selections Act

SCOTUS' declaring unconstitutional the Case

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[7] First, in its strongest form, case law can't overrule the Constitution due to the Supremacy Clause, U.S. Const. art. VI, cl. 2. Second, *Janus v. American Federation of State, County, and Mun. Employees, Council 31* (2018) 138 S.Ct. 2448, 2478, states (emphasis added):

> [A]s we have often recognized, *stare decisis* is "'not an inexorable command.'" [Citations.]
>
> The doctrine "***is at its weakest when we interpret the Constitution***..." [Citation]. And ***stare decisis applies with perhaps least force of all to decisions that wrongly denied First Amendment rights***: "This Court has not hesitated to overrule decisions offensive to the First Amendment (a fixed star in our constitutional constellation, if there is one)."

[8] By recognizing the mandatory constitutional right to appeal, SCOTUS will ensure that life, liberty, and property rights remain protected where it's needed most: the unusual/uninviting case.

More practically, appellate rights are now fundamental to protecting the justice system because trial procedures are so reliant upon appellate remedies that appellate rights have become subsumed as fundamental due process.

Selections Act's provisions making state-court appellate review discretionary equates to the First Method *supra*. The only difference is that SCOTUS' reversion to its pre-1988 practice would become mandatory vs. voluntary. Again, not the best choice since just like the First Method, it suffers from losing the advantages of the Second Method.

Regardless of the method utilized, it's SCOTUS duty to comply with the Constitution, and for SCOTUS' Justices to honor their oaths of office, "to support th[e] Constitution", U.S. Const. art. VI, cl. 3.

5. THIS CASE INVOLVES WEIGHTY ISSUES THAT MERIT SCOTUS' REVIEW

a. VIOLATION OF AT LEAST FOUR FUNDAMENTAL RIGHTS

Justice Brennan stated, "The Constitution was framed fundamentally as a ***bulwark against governmental power***, and ***preventing the arbitrary administration of punishment*** is a basic ideal of any society that purports to be governed by the rule of law.", *McCleskey v. Kemp* (1987) 481 U.S. 279, 339 (dissent, emphasis added).

SCOTUS applies different standards of review to determine how strong, and how high, the "bulwark" must be to prevent government power from infringing citizens' rights.

The strongest, and highest, "bulwark" standard is "strict scrutiny" (*Washington v. Glucksberg* (1997) 521 U.S. 702, 721); reserved for the most-protected legal rights: fundamental rights.

The following are four fundamental rights:

- **Redress of grievances, (access to courts)**, *Village of Belle Terre v. Boraas* (1974) 416 U.S. 1, 7 (citing to *National Ass'n for Advancement of Colored People v. Button* (1963) 371 U.S. 415);
- **Freedom to raise one's children**, *Santa Monica Nativity Scenes Comm. v. City of Santa Monica* (9th Cir. 2015) 784 F.3d 1286, 753;
- **To practice law**, *Supreme Court of New Hampshire v. Piper* (1985) 470 U.S. 274, 281-2;
- **Due process before deprivation of one's property**, *Buchanan v. Warley* (1917) 245 U.S. 60, 75-76.

Indisputably, California arbitrarily exercised governmental power that violated, inter alia, all four of Hadsell's fundamental rights listed *supra* when:

- A rogue trial judge refused to: i) hold any hearing, or ii) allow Hadsell to file any motion; yet granted an opposing ex-parte motion that was:
    - Submitted by a layperson in violation of law;
    - ***Never entered*** into the record; and
    - Adjudicated with no PJ nor SMJ.
- Cal. Appellate Cts denied appellate-court access to Hadsell; therefore, they provided no review of the rogue trial judge's unlawful actions.

California's pattern of arbitrary exercise of governmental power violating numerous fundamental rights in this case merits review from SCOTUS.

b. CALIFORNIA'S FAILURE TO ADDRESS ROGUE JUDGE'S EXTRAJUDICIAL VIOLATIONS OF LAW AND UNCONSTITUTIONAL LAW

California's failure to address, let alone correct, a rogue judge's extrajudicial violations of law, is applicable to all California's nearly 40 million citizens, or about 12% of this nation's population.

California's unconstitutional law is applicable to all Californians, and currently affects over 1,800 citizens.

Both issues leave California's citizens with no access to California's courts—leaving Californians with self-help as their only option for relief.

Citizens' resorting to self-help is anathema to California's judiciary, and therefore, merits review from SCOTUS.

Additionally, abolishing the unconstitutional Rooker-Feldman Doctrine that applies nationwide would allow SCOTUS to truly review a federal-civil-rights case by reviewing a federal-trial-court record instead of an indirectly related, stale, state-court record. This issue merits SCOTUS' review.

c. THE ISSUES IN THIS CASE COMPARE FAVORABLY WITH OTHER CASES GRANTED REVIEW

This case involves, inter alia:

- Illegal deprivation of millions of dollars;
- Numerous fundamental rights violations;
- Unconstitutional state law;
- Denial of access to state courts resulting in vigilantism as the only means of redress for nearly

40 million people; and

- Overruling the unconstitutional Rooker-Feldman Doctrine.

In comparison, *Herrera v. Wyoming* (2019) 139 S.Ct. 1686 involved:

- A fraction of elk hunters among 7,900 Crow Indians;
- Tribe member Mr. Herrera ("**Herrera**"), allegedly a "subsistence" hunter:
    - During the off season;
    - Rather than pursue other elk on the Crow Tribe reservation, Herrera killed an elk, that during the pursuit, escaped the reservation and crossed the Montana/Wyoming border into the Bighorn National Forest;
- The Crow Tribe reservation compares favorably with the rest of Montana regarding grocery stores per capita.

The Wyoming trial court imposed upon Herrera no jail time, an $8,080 fine plus court costs, and a three-year hunting privileges suspension in Wyoming (which didn't affect Herrera's hunting on the reservation, or his home state of Montana).

SCOTUS came to Herrera's assistance by allowing him to rely upon *Minnesota v. Mille Lacs Band of Chippewa Indians* (1999) 526 U.S. 172 when the Wyoming courts refused Herrera that defense.

In fairness, SCOTUS' work additionally reaffirmed that *Mille Lacs* is controlling for rare litigation regarding treaty rights' survival when a territory is admitted as a state.

Fairness also seems to dictate that given *Herrera* met SCOTUS' criteria for state-court appellate review, this case should fulfill those criteria since it involves fundamental rights violations, Constitution violations, unconstitutional state law, touches the rights of all Americans, and involves property values in the millions of dollars.

C. CONCLUSION/PRAYER FOR RELIEF

For the foregoing reasons, Hadsell prays that this Court:

Grant rehearing of the order denying the Writ of Mandamus;

Grant the Writ of Mandamus; and thereby:

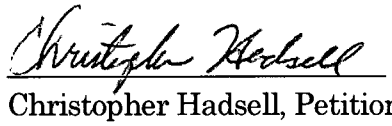
Remand to the Trial Court with instructions to vacate the 8/14/18 Judgment and replace it with the Findings and Order After Hearing from the RFO To Vacate and Enter Different Judgment received 8/30/18.

Respectfully submitted,

Christopher Hadsell, Petitioner
October 31, 2019

IV. CERTIFICATE OF PETITIONER

Hadsell certifies that this Petition for Rehearing is presented in good faith and not for delay.



Christopher Hadsell, Petitioner
October 31, 2019

APPENDIX A

28 U.S.C. §1257 HISTORICAL REVISIONS

Date: 9/24/1789

Citation: 1 Stat. c. 20, §13(a), p. 81, and §25, p. 85

Text:

Sec. 13(a) ... The Supreme Court shall also have appellate jurisdiction from the circuit courts and courts of the several states, in the cases herein after specially provided for;...

Sec. 25. *And be it further enacted,* That a final judgment or decree in any suit, in the highest court of law or equity of a State in which a decision in the suit could be had, where is drawn in question the validity of a treaty or statute of, or an authority exercised under the United States, and the decision is against their validity; or where is drawn in question the validity of a statute of, or an authority exercised under any State, on the ground of their being repugnant to the constitution, treaties or laws of the United States, and the decision is in favour of such their validity, or where is drawn in question the construction of any clause of the constitution,

or of a treaty, or statute of, or commission held under the United States, and the decision is against the title, right, privilege or exemption specially set up or claimed by either party, under such clause of the said Constitution, treaty, statute or commission, ***may*** be reexamined and reversed or affirmed in the Supreme Court of the United States upon a writ of error, the citation being signed by the chief justice, or judge or chancellor of the court rendering or passing the judgment or decree complained of, or by a justice of the Supreme Court of the United States, in the same manner and under the same regulations, and the writ shall have the same effect, as if the judgment or decree complained of had been rendered or passed in a circuit court, and the proceeding upon the reversal shall also be the same, except that the Supreme Court, instead of remanding the cause for a final decision as before provided, ***may*** at their discretion, if the cause shall have been once remanded before, proceed to a final decision of the same, and award execution. But no other error shall be assigned or regarded as a ground of reversal in any such case as aforesaid, than such as appears on the face of the record, and immediately respects the before mentioned questions of

validity or construction of the said constitution treaties, statutes, commissions, or authorities in dispute.

(Emphasis added.)

Date: 1875 (As of 12/1/1873)

Citation: R.S. §§ 690 and 709, 1st ed.

Text:

Sec. 690. The Supreme Court shall have appellate jurisdiction, in the cases hereinafter specially provided for.

Sec. 709. A final judgment or decree in any suit in the highest court of a State, in which a decision in the suit could be had, where is drawn in question the validity of a treaty or statute of, or an authority exercised under, the United States, and the decision is against their validity; or where is drawn in question the validity of a statute of, or an authority exercised under any State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision is in favor of their validity; or where any title, right, privilege, or immunity is claimed under the Constitution, or any treaty or statute of, or commission held or authority exercised under, the United States, and the decision is against

the title, right, privilege, or immunity specially set up or claimed, by either party, under such Constitution, treaty, statute, commission, or authority, ***may*** be re-examined and reversed or affirmed in the Supreme Court upon a writ of error. The writ shall have the same effect as if the judgment or decree complained of had been rendered or passed in a court of the United States; and the proceeding upon the reversal shall be the same, except that the Supreme Court ***may***, at their discretion, proceed to a final decision of the case, and award execution, or remand the same to the court from which it was so removed.

The Supreme Court ***may*** re-affirm, reverse, modify, or affirm the judgment or decree of such State court, and ***may***, at their discretion, award execution, or remand the same to the court from which it was removed by the writ.

(Emphasis added.)

Date: 1877 (As of 12/1/1873)

Citation: R.S. §§ 690 and 709, 2d ed.

Text:

Sec. 690. The Supreme Court shall have appellate jurisdiction, in the cases hereinafter specially provided for.

Sec. 709. A final judgment or decree in any suit in the highest court of a State, in which a decision in the suit could be had, where is drawn in question the validity of a treaty or statute of, or an authority exercised under, the United States, and the decision is against their validity; or where is drawn in question the validity of a statute of, or an authority exercised under any State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision is in favor of their validity; or where any title, right, privilege, or immunity is claimed under the Constitution, or any treaty or statute of, or commission held or authority exercised under, the United States, and the decision is against the title, right, privilege, or immunity specially set up or claimed, by either party, under such Constitution, treaty, statute, commission, or authority, ***may*** be re-examined, and reversed or affirmed in the Supreme Court upon a writ of error. The writ shall have the same effect as if the judgment or decree complained of had been rendered or passed in a court of the United States; and the proceeding upon the reversal shall be the same, except that the Supreme Court

may, at their discretion, proceed to a final decision of the case, and award execution, or remand the same to the court from which it was so removed.

The Supreme Court ***may*** re-affirm, reverse, modify, or affirm the judgment or decree of such State court, and ***may***, at their discretion, award execution, or remand the same to the court from which it was removed.

(Emphasis added.)

Date: 1911 (As of 3/3/1911)

Citation: Jud. Code §§ 236-237

Text:

Sec. 236. The Supreme Court shall have appellate jurisdiction in the cases hereinafter specially provided for.

Sec. 237. A final judgment or decree in any suit in the highest court of a State in which a decision in the suit could be had, where is drawn in question the validity of a treaty or statute of, or an authority exercised under, the United States, and the decision is against their validity; or where is drawn in question the validity of a statute of, or an authority exercised under any State, on the ground of their being repugnant to the

Constitution, treaties, or laws of the United States, and the decision is in favor of their validity; or where any title, right, privilege, or immunity is claimed under the Constitution or any treaty or statute of, or commission held or authority exercised under, the United States, and the decision is against the title, right, privilege, or immunity especially set up or claimed, by either party, under such Constitution, treaty, statute, commission, or authority, ***may*** be reexamined and reversed or affirmed in the Supreme Court upon a writ of error. The writ shall have the same effect as if the judgment or decree complained of had been rendered or passed in a court of the United States. The Supreme Court ***may*** reverse, modify, or affirm the judgment or decree of such State court, and ***may***, at their discretion, award execution or remand the same to the court from which it was removed by the writ. (Emphasis added.)

Date: 1926 (As of 12/7/25)

Citation: 28 U.S.C. §344

Text:

344. (Judicial Code, section 237, amended.) Appellate jurisdiction of decrees of State courts; certiorari.

(a) A final judgment or decree in any suit in the highest court of a State in which a decision in the suit could be had, where is drawn in question the validity of a treaty or statute of the United States, and the decision is against its validity; or where is drawn, in question the validity of a statute of any State, on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, and the decision is in favor of its validity, ***may*** be reviewed by the Supreme Court upon a writ of error. The writ shall have the same effect as if the judgment or decree had been rendered or passed in a court of the United States. The Supreme Court ***may*** reverse, modify, or affirm the judgment or decree of such State court, and ***may***, in its discretion, award execution or remand the cause to the court from which it was removed by the writ.

(b) It shall be competent for the Supreme Court, by certiorari, to require that there be certified to it for review and determination, with the same power and authority and with like effect as if brought up by writ of error, any cause

wherein a final judgment or decree has been rendered or passed by the highest court of a State in which a decision could be had where is drawn in question the validity of treaty or statute of the United States; or where is drawn in question the validity of a statute of any State on the ground of its being repugnant to the Constitution, treaties, or laws of the United States; or where any title, right, privilege, or immunity is specially set up or claimed by either party under the Constitution, or any treaty or statute of, or commission held or authority exercised under, the United States; and the power to review under this paragraph ***may*** be exercised as well where federal claim is sustained as where it is denied. Nothing in this paragraph shall be construed to limit or detract from the right to a review on a writ of error in a case where such a right is conferred by the preceding paragraph; nor shall the fact that a review on a writ of error might be obtained under the preceding paragraph be an obstacle to granting a review on certiorari under this paragraph.

(c) If a writ of error be improvidently sought and allowed under this section in a case where the proper mode of

invoking a review is by a petition for certiorari, this alone shall not be a ground for dismissal; but the papers whereon the writ of error was allowed shall be regarded and acted on as a petition for certiorari and as if duly presented to the Supreme Court at the time they were presented to the court or judge by whom the writ of error was allowed: *Provided*, That where in such a case there appears to be no reasonable ground for granting a petition for certiorari it shall be competent for the Supreme Court to adjudge to the respondent reasonable damages for his delay, and single or double costs, as provided in section 878 of this title.

(Emphasis added; except for italics for the word "Provided".)

Date: 1934 (As of 1/3/1935)

Citation: 28 U.S.C. §344

Text:

§ 344. (Judicial Code, section 237, amended.) Appellate jurisdiction of decrees of State courts; certiorari.

(a) A final judgment or decree in any suit in the highest court of a State in which a decision in the suit could be had, where

is drawn in question the validity of a treaty or statute of the United States, and the decision is against its validity; or where is drawn in question the validity of a statute of any State, on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, and the decision is in favor of its validity, ***may*** be reviewed by the Supreme Court upon appeal. The appeal shall have the same effect as if the judgment or decree had been rendered or passed in a court of the United States. The Supreme Court ***may*** reverse, modify, or affirm the judgment or decree of such State court, and ***may***, in its discretion, award execution or remand the cause to the court from which it was removed by the appeal.

(b) It shall be competent for the Supreme Court, by certiorari, to require that there be certified to it for review and determination, with the same power and authority and with like effect as if brought up by appeal, any cause wherein a final judgment or decree has been rendered or passed by the highest court of a State in which a decision could be had where is drawn in question the validity of treaty or statute of

the United States; or where is drawn in question the validity of a statute of any State on the ground of its being repugnant to the Constitution, treaties, or laws of the United States; or where any title, right, privilege, or immunity is specially set up or claimed by either party under the Constitution, or any treaty or statute of, or commission held or authority exercised under, the United States; and the power to review under this paragraph ***may*** be exercised as well where federal claim is sustained as where it is denied. Nothing in this paragraph shall be construed to limit or detract from the right to a review on appeal in a case where such a right is conferred by the preceding paragraph; nor shall the fact that a review on appeal might be obtained under the preceding paragraph be an obstacle to granting a review on certiorari under this paragraph.

(c) If an appeal be improvidently sought and allowed under this section in a case where the proper mode of invoking a review is by a petition for certiorari, this alone shall not be a ground for dismissal; but the papers whereon the writ of error was allowed shall be regarded and acted on as a petition for

certiorari and as if duly presented to the Supreme Court at the time they were presented to the court or judge by whom the appeal was allowed: *Provided*, That where in such a case there appears to be no reasonable ground for granting a petition for certiorari it shall be competent for the Supreme Court to adjudge to the respondent reasonable damages for his delay, and single or double costs, as provided in section 878 of this title.

(Emphasis added; except for italics for the word "Provided".)

Date: 1940 (As of 1/3/1941)

Citation: 28 U.S.C. §344

Text:

§ 344. (Judicial Code, section 237, amended.) Appellate jurisdiction of decrees of State courts; certiorari.

(a) A final judgment or decree in any suit in the highest court of a State in which a decision in the suit could be had, where is drawn in question the validity of a treaty or statute of the United States, and the decision is against its validity; or where is drawn in question the validity of a statute of any State, on the ground of its being repugnant to the

Constitution, treaties, or laws of the United States, and the decision is in favor of its validity, ***may*** be reviewed by the Supreme Court upon appeal. The appeal shall have the same effect as if the judgment or decree had been rendered or passed in a court of the United States. The Supreme Court ***may*** reverse, modify, or affirm the judgment or decree of such State court, and ***may***, in its discretion, award execution or remand the cause to the court from which it was removed by the appeal.

(b) It shall be competent for the Supreme Court, by certiorari, to require that there be certified to it for review and determination, with the same power and authority and with like effect as if brought up by appeal, any cause wherein a final judgment or decree has been rendered or passed by the highest court of a State in which a decision could be had where is drawn in question the validity of treaty or statute of the United States; or where is drawn in question the validity of a statute of any State on the ground of its being repugnant to the Constitution, treaties, or laws of the United States; or where any title, right, privilege, or immunity is specially set

up or claimed by either party under the Constitution, or any treaty or statute of, or commission held or authority exercised under, the United States; and the power to review under this paragraph ***may*** be exercised as well where Federal claim is sustained as where it is denied. Nothing in this paragraph shall be construed to limit or detract from the right to a review on appeal in a case where such a right is conferred by the preceding paragraph; nor shall the fact that a review on appeal might be obtained under the preceding paragraph be an obstacle to granting a review on certiorari under this paragraph.

(c) If an appeal be improvidently sought and allowed under this section in a case where the proper mode of invoking a review is by a petition for certiorari, this alone shall not be a ground for dismissal; but the papers whereon the appeal was allowed shall be regarded and acted on as a petition for certiorari and as if duly presented to the Supreme Court at the time they were presented to the court or judge by whom the appeal was allowed: *Provided*, That where in such a case there appears to be no reasonable ground for granting a

petition for certiorari it shall be competent for the Supreme Court to adjudge to the respondent reasonable damages for his delay, and single or double costs, as provided in section 878 of this title.

(Emphasis added; except for italics for the word "Provided".)

Date: 1946 (As of 1/2/1947)

Citation: 28 U.S.C. §344

Text:

§ 344. (Judicial Code, section 237, amended.) Appellate jurisdiction of decrees of State courts; certiorari.

(a) A final judgment or decree in any suit in the highest court of a State in which a decision in the suit could be had, where is drawn in question the validity of a treaty or statute of the United States, and the decision is against its validity; or where is drawn in question the validity of a statute of any State, on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, and the decision is in favor of its validity, ***may*** be reviewed by the Supreme Court upon appeal. The appeal shall have the same

effect as if the judgment or decree had been rendered or passed in a court of the United States. The Supreme Court ***may*** reverse, modify, or affirm the judgment or decree of such State court, and ***may***, in its discretion, award execution or remand the cause to the court from which it was removed by the appeal.

(b) It shall be competent for the Supreme Court, by certiorari, to require that there be certified to it for review and determination, with the same power and authority and with like effect as if brought up by appeal, any cause wherein a final judgment or decree has been rendered or passed by the highest court of a State in which a decision could be had where is drawn in question the validity of treaty or statute of the United States; or where is drawn in question the validity of a statute of any State on the ground of its being repugnant to the Constitution, treaties, or laws of the United States; or where any title, right, privilege, or immunity is specially set up or claimed by either party under the Constitution, or any treaty or statute of, or commission held or authority exercised under, the United States; and the power to review under this

paragraph ***may*** be exercised as well where federal claim is sustained as where it is denied. Nothing in this paragraph shall be construed to limit or detract from the right to a review on appeal in a case where such a right is conferred by the preceding paragraph; nor shall the fact that a review on appeal might be obtained under the preceding paragraph be an obstacle to granting a review on certiorari under this paragraph.

(c) If an appeal be improvidently sought and allowed under this section in a case where the proper mode of invoking a review is by a petition for certiorari, this alone shall not be a ground for dismissal; but the papers whereon the appeal was allowed shall be regarded and acted on as a petition for certiorari and as if duly presented to the Supreme Court at the time they were presented to the court or judge by whom the appeal was allowed: *Provided*, That where in such a case there appears to be no reasonable ground for granting a petition for certiorari it shall be competent for the Supreme Court to adjudge to the respondent reasonable damages for his delay, and single or double costs, as provided in section

878 of this title.

(Emphasis added; except for italics for the word "Provided".)

Date: 1952 (As of 1/2/1953)

Citation: 28 U.S.C. §1257

Text:

§1257. State courts; appeal; certiorari.

Final judgments or decrees rendered by the highest court of a State in which a decision could be had, ***may*** be reviewed by the Supreme Court as follows:

(1) By appeal, where is drawn in question the validity of a treaty or statute of the United States and the decision is against its validity.

(2) By appeal, where is drawn in question the validity of a statute of any state on the ground of its being repugnant to the Constitution, treaties or laws of the United States, and the decision is in favor of its validity.

(3) By writ of certiorari, where the validity of a treaty or statute of the United States is drawn in question or where the validity of a State statute is drawn in question on the ground of its being repugnant to the Constitution, treaties or laws of

the United States, or where any title, right, privilege or immunity is specially set up or claimed under the Constitution, treaties or statutes of, or commission held or authority exercised under, the United States.

Date: 1982 (As of 1/14/1983)

Citation: 28 U.S.C. §1257

Text:

§1257. State courts; appeal; certiorari.

Final judgments or decrees rendered by the highest court of a State in which a decision could be had, ***may*** be reviewed by the Supreme Court as follows:

(1) By appeal, where is drawn in question the validity of a treaty or statute of the United States and the decision is against its validity.

(2) By appeal, where is drawn in question the validity of a statute of any state on the ground of its being repugnant to the Constitution, treaties or laws of the United States, and the decision is in favor of its validity.

(3) By writ of certiorari, where the validity of a treaty or statute of the United States is drawn in question or where the

validity of a State statute is drawn in question on the ground of its being repugnant to the Constitution, treaties or laws of the United States, or where any title, right, privilege or immunity is specially set up or claimed under the Constitution, treaties or statutes of, or commission held or authority exercised under, the United States.

For the purposes of this section, the term "highest court of a State" includes the District of Columbia Court of Appeals.

Date: 2017

Citation: 28 U.S.C. §1257

Text:

§ 1257. State courts; certiorari

(a) Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or

claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.

(b) For the purposes of this section, the term "highest court of a State" includes the District of Columbia Court of Appeals.