

No. _____

In The
Supreme Court of the United States

GREGORY GARMONG,

Petitioner,

vs.

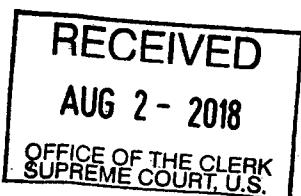
THE STATE OF NEVADA, ex rel. THE NEVADA
SUPREME COURT, and JUSTICE JAMES W. HARDESTY,
JUSTICE KRISTINA PICKERING, JUSTICE MARK
GIBBONS, JUSTICE MICHAEL A. CHERRY, JUSTICE
MICHAEL DOUGLAS, JUSTICE NANCY M. SAITTA,
and JUSTICE RON D. PARAGRUIRE,
all in their official and individual capacities,

Respondents.

**On Petition For Writ Of Certiorari
To The United States Court Of Appeals
For The Ninth Circuit**

PETITION FOR A WRIT OF CERTIORARI

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Unrepresented Litigant



QUESTION PRESENTED

The Court of Appeals of the Ninth Circuit affirmed an order of the District Court of Nevada, dismissing a federal civil-rights Complaint made under 42 U.S.C. §1983, solely on the ground that the federal civil-rights action was barred by the *Rooker-Feldman* doctrine. The civil-rights Complaint alleged that the Defendant Nevada Supreme Court had denied Petitioner his civil rights during the course of underlying state actions, and sought recovery solely on that basis. The civil-rights Complaint did not seek “review and rejection” of the judgments of the state actions, the criterion for application of *Rooker-Feldman* established by *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280 (2005).

Accordingly, the question presented is:

Whether the Ninth Circuit may ignore and refuse to follow this Court’s precedent in application of the *Rooker-Feldman* doctrine, which requires that the federal court determine whether the federal civil-rights Complaint seeks “review and rejection” of the underlying state-court judgments, and on that basis affirm the dismissal of the civil-rights Complaint.

This Question goes to the very heart of this Court’s authority as the highest court of the land. The Ninth Circuit, both in panel and *en banc*, was made fully aware of this Court’s controlling precedent, but refused not only to follow *Exxon* but also to even acknowledge

QUESTION PRESENTED – Continued

its existence. The Ninth Circuit’s refusal to follow *Exxon* signals its rejection of this Court’s jurisprudence on the *Rooker-Feldman* doctrine, reverting to the time when lower courts could avoid the substance of a civil-rights complaint by improperly applying the jurisdictional *Rooker-Feldman* doctrine. The Ninth Circuit’s action also serves to defeat the policy of Congress and this Court to encourage persons to vindicate their civil rights.

PARTIES

Gregory Garmong, an individual, Plaintiff and Petitioner.

The State of Nevada, ex rel. The Nevada Supreme Court, and Justice James W. Hardesty, Justice Kristina Pickering, Justice Mark Gibbons, Justice Michael A. Cherry, Justice Michael Douglas, Justice Nancy M. Saitta, and Justice Ron D. Paragruire, in their official and individual capacities, Defendants and Respondents.

There are no corporate parties involved in this matter.

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for rehearing, not reported)

STATEMENT OF BASIS FOR JURISDICTION

The Ninth Circuit issued its Memorandum (App. 1-2) from which review is sought, on February 23, 2018. Petitioner timely petitioned for panel rehearing and rehearing *en banc*. The Ninth Circuit issued its Order denying the petition for panel rehearing and rehearing *en banc* (App. 4) on May 9, 2018. This Petition for Writ of Certiorari is filed within 90 days of May 9, 2018.

The jurisdiction of this Court is invoked under 28 U.S.C. §§1254(1) and 2101(c).

PROVISIONS OF LAW

United States Constitution, Amendment XIV,
§ 1

1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State

shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Constitution of the State of Nevada, Article 1 §8(5)

5. No person shall be deprived of life, liberty, or property, without due process of law.

42 U.S.C. §1983

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

STATEMENT OF THE CASE**Facts Giving Rise to This Case**

Plaintiff was involved in five lawsuits, some inter-related with others, in the Nevada State Courts. (App. 12) The five lawsuits all involved private parties. These lawsuits eventually reached the Nevada Supreme Court. Some aspects of the decisions of the Nevada Supreme Court violated Plaintiff's Fourteenth Amendment civil rights. For example, in these cases the Nevada Supreme Court refused to consider the issue of subject-matter jurisdiction, refused to apply its own and this Court's precedent, refused to apply the law to the undisputed facts, refused to explain its actions, and refused to apply the law fairly and impartially. (App. 13)

Judicial Proceedings

Plaintiff filed a federal civil-rights lawsuit in the District of Nevada, alleging under 42 U.S.C. §1983 violations of due process and equal protection by the Nevada Supreme Court and its justices. (App. 12-13) There were constitutional claims arising under the Nevada Constitution, and supplemental-jurisdiction state-law claims as well. (App. 13-14)

The basis for jurisdiction in the court of first instance, the United States District Court for the District of Nevada, over the federal claims arising under the Constitution and laws of the United States was 28 U.S.C. §1331. The basis for jurisdiction for the claims

arising under the laws of the State of Nevada was 28 U.S.C. §1367(a).

The Respondents filed a motion to dismiss, and the District Court of Nevada dismissed the federal civil-rights lawsuit on the sole ground of absence of jurisdiction based upon the *Rooker-Feldman* doctrine. (App. 3-6) The dismissal ignored the fact that nothing in the federal civil-rights Complaint invited review or rejection of any of the state-court judgments, and none of the defendants in the federal civil-rights lawsuit were parties in the underlying state-law cases. In opposing the motion to dismiss, Petitioner relied upon this Court's controlling precedent on the *Rooker-Feldman* doctrine, most notably *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280 (2005). The District Court's decision refused to address this controlling precedent and refused to address the substance of the federal civil-rights Complaint. The District Court held no oral hearing. (App. 3-6)

Petitioner then appealed to the Ninth Circuit. Petitioner's counsel filed the opening brief (App. 8-29), and then, literally just a few days before the reply was due, inexplicably abandoned him. Petitioner filed a reply and has proceeded as an unrepresented litigant since then.

Petitioner's Opening Brief in the Ninth Circuit emphasized this Court's recent decisions concerning the *Rooker-Feldman* doctrine, as well as the Ninth Circuit's own consistent decisions. (App. 21-22)

The Ninth Circuit rejected the appeal (App. 1-2), but refused to address the content of the federal civil-rights Complaint and this Court’s controlling *Rooker-Feldman* precedent, *Exxon*. There is no mention of *Exxon*, consistent decisions of this Court, or consistent decisions of the Ninth Circuit.

Petitioner petitioned for panel and *en banc* rehearing. The Petition emphasized that the federal civil-rights Complaint did not seek “review and rejection” of the underlying state-court actions, and also this Court’s recent decisions on interpretation of the *Rooker-Feldman* doctrine. The Ninth Circuit rejected both petitions, again refusing to address the content of the federal civil-rights Complaint and this Court’s *Rooker-Feldman* controlling precedent, *Exxon* (App. 7) and other consistent decisions.

In summary of the judicial proceedings, the District Court of Nevada dismissed the federal civil-rights Complaint on jurisdictional *Rooker-Feldman* grounds, without addressing the content of the federal civil-rights Complaint and this Court’s controlling precedent, *Exxon* or other consistent decisions. The Ninth Circuit panel, and then the panel on rehearing and *en banc* court on rehearing, affirmed the dismissal, again without addressing the content of the federal civil-rights Complaint and the controlling precedent of this Court or the Ninth Circuit.

Significantly, the District Court (App. 3-6) and the Ninth Circuit (App. 1-2 and App. 7) did not address this Court’s controlling precedent, *Exxon*, and distinguish

it, and did not address the language of the federal civil-rights Complaint and attempt to demonstrate that it did seek “review and rejection” of the underlying state-law judgments as required by *Exxon*.

REASONS FOR GRANTING THE WRIT

A. The *Rooker-Feldman* doctrine is applicable only where the federal Complaint seeks “review and rejection” of the state-court judgment.

The *Rooker-Feldman* doctrine is based upon decisions of this Court in *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923) (“*Rooker*”), and *D.C. Court of Appeals v. Feldman*, 460 U.S. 462 (1983) (“*Feldman*”). Briefly stated, the *Rooker-Feldman* doctrine holds that lower federal courts are precluded from exercising appellate jurisdiction over final state-court judgments.

Following this Court’s decision in *Feldman*, there were numerous lower court decisions in which the *Rooker-Feldman* doctrine was widely applied, some would say misapplied, to dismiss federal lawsuits that did not seek to alter the prior state-court judgments in any way. The misuse of the *Rooker-Feldman* doctrine became an approach for lower federal courts to avoid addressing the substance of federal-court complaints by dismissing them on *Rooker-Feldman* jurisdictional grounds.

Such misapplication of the jurisdictional *Rooker-Feldman* doctrine has a particularly insidious effect,

because it allows the federal court to avoid addressing the substance of the federal complaint, in the present case a civil-rights Complaint under 42 U.S.C. §1983.

This Court clarified and restored order in the jurisprudence of the *Rooker-Feldman* doctrine in *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280 (2005). At the outset of *Exxon*, 544 U.S. at 283, the Court acknowledged the status of some lower-court misinterpretations of *Rooker-Feldman*, stating, “Variously interpreted in the lower courts, the doctrine has sometimes been construed to extend far beyond the contours of the *Rooker* and *Feldman* cases[.]”

Exxon then held that the *Rooker-Feldman* doctrine is to be strictly interpreted and applied narrowly within the limits of the original cases:

The *Rooker-Feldman* doctrine, we hold today, is confined to cases of the kind from which the doctrine acquired its name: cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments. . . . In the case before us, the Court of Appeals for the Third Circuit misperceived the narrow ground occupied by *Rooker-Feldman*, and consequently erred in ordering the federal action dismissed for lack of subject-matter jurisdiction. (544 U.S. at 284, bolding emphasis added) Since *Feldman*, this Court has never applied *Rooker-Feldman* to dismiss an action for want of jurisdiction. The few decisions that

have mentioned *Rooker* and *Feldman* have done so only in passing or to explain why those cases did not dictate dismissal. (544 U.S. at 287)

This Court later confirmed *Exxon*'s standard in *Lance v. Dennis*, 546 U.S. 459, 464 (2006) and *Skinner v. Switzer*, 562 U.S. 521, 532 (2011).

Exxon holds that the *Rooker-Feldman* doctrine applies only when the federal Complaint "invite[s] district court review and rejection of the [state-court] judgments." That is, the specific language of the federal Complaint, especially its request for relief, must be carefully examined to determine if the plaintiff seeks "review and rejection" of the underlying state-court judgment.

This passage from *Exxon* was quoted in the Opening Brief to the Ninth Circuit (App. 21), as well as in the briefs to the district court and to the Ninth Circuit seeking rehearing (not included as exhibits here). The Ninth Circuit was fully aware of this Court's precedent. The Opening Brief also discussed the content of the federal civil-rights Complaint in detail, demonstrating that it did not invite "review and rejection" of the underlying state-court judgments. (App. 26-29) The content of the state-court judgments was pertinent only as the factual basis for alleging the denial of Petitioner's civil rights.

Petitioner's Opening Brief (App. 8-29) also included a quotation from *Skinner*, 562 U.S. at 532. (App. 21-22)

We observed in *Exxon* that the *Rooker-Feldman* doctrine had been construed by some federal courts “to extend far beyond the contours of the *Rooker* and *Feldman* cases.” *Id.* at 283. Emphasizing “the narrow ground” occupied by the doctrine, *id.* at 284, we clarified in *Exxon* that *Rooker-Feldman* “is confined to cases of the kind from which the doctrine acquired its name: cases brought by state-court losers . . . inviting district court *review and rejection* of [the state court’s] judgments.” *Ibid.* [italics in original brief]

- B. Petitioner’s Opening Brief in the Ninth Circuit emphasized the proper “review and rejection” standard of the *Rooker-Feldman* doctrine established by *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280 (2005), but the Ninth Circuit’s decision ignored, and refused to follow, this Court’s precedent.**
 - 1. Petitioner’s Opening Brief specifically addressed the language of the federal civil-rights Complaint, to demonstrate that it did not seek “review and rejection” of the state-court actions.**

Petitioner’s Opening Brief addressed the content of the federal civil-rights Complaint in detail, discussing in detail the nature of the relief sought. (App. 26-29) The following paragraphs of the federal civil-rights Complaint, quoted and discussed in the Opening Brief, address the relief sought for the first and second

causes of action, the federal civil-rights violations (App. 27):

50. As a result of these constitutional violations by the Defendants, and each of them, in both their official and individual capacities, Plaintiff has suffered monetary damages, in an amount subject to proof.

51. In addition to monetary damages, Plaintiff is entitled to declaratory and injunctive relief, to protect him against similar deprivation of his Constitutional rights in the future.

52. Plaintiff has been forced to engage the services of an attorney to pursue this matter and vindicate his Constitutional rights and is therefore entitled to recover those attorney's fees and costs, reasonably incurred, together with interest, from the Defendants, and each of them.

The same requests for relief are repeated in the third through sixth claims for relief, seeking only monetary damages, and declaratory and injunctive relief not affecting the underlying judgments, and attorney fees.

The final prayer for relief of the federal Complaint requested, also quoted and discussed in the Opening Brief (App. 28):

79. A declaration that the Justices violated Plaintiff's due process and equal protection rights under the Fourteenth Amendment.

80. A preliminary and permanent injunction prohibiting Defendants from violating Plaintiff's Constitutional rights under the Fourteenth Amendment and under Article 1 §8(5) of the Constitution of the State of Nevada in any pending or future cases.

81. An award of monetary damages, compensatory and punitive, with liability to be assessed against the Defendants, and each of them, in both their official and personal capacities, together with prejudgment interest in an amount to be calculated.

82. An award of reasonable attorney's fees and costs, together with prejudgment interest in an amount to be calculated.

83. Any further relief this Court deems appropriate.

Absolutely nothing in the federal civil-rights Complaint seeks "review and rejection" of the underlying state-court judgments.

Alternatively stated, "[A]ll relief sought by the complaint in the current action would leave the judgments in the relevant state-court judgments completely unaffected and completely enforceable. Therefore, the complaint is not a *de facto* appeal under the *Rooker-Feldman* doctrine in the first place, and the *Rooker-Feldman* inquiry should have ended with that negative determination." (App. 17)

2. **The Ninth Circuit’s Memorandum did not address this Court’s *Exxon* precedent or the language of Petitioner’s federal civil-rights Complaint, and did not apply *Exxon*’s “review and rejection” standard.**

The Ninth Circuit panel’s Memorandum (App. 1-2) refused to address this Court’s controlling precedent, and made its decision on incorrect legal grounds. (App. 2) The entirety of the Ninth Circuit’s substantive decision is:

The district court properly dismissed Garmong’s action as barred by the *Rooker-Feldman* doctrine because Garmong’s action is a “de facto appeal” of prior state-court judgments, and raises claims that are “inextricably intertwined” with those judgments. See *Cooper v. Ramos*, 704 F.3d 772, 782 (9th Cir. 2012) (*Rooker-Feldman* doctrine barred claim that was “inextricably intertwined” with the state court’s decision); *Henrichs v. Valley View Dev.*, 474 F.3d 609, 616 (9th Cir. 2007) (*Rooker-Feldman* doctrine barred plaintiff’s claim because alleged legal injuries arose from the “state court’s purportedly erroneous judgment” and the relief sought “would require the district court to determine that the state court’s decision was wrong and thus void”).

The Memorandum failed to mention the controlling authority of this Court, which had been raised in Petitioner’s Opening Brief at App. 21-22. It also failed to apply the required approach of examining the

content of the federal Complaint to determine whether it sought “review and rejection” of the underlying state-court judgments. Upon petition for reconsideration, the panel took the same approach, and the Ninth Circuit *en banc* agreed.

Under the Ninth Circuit’s approach, improper actions by a state court could never form the factual basis for a cause of action under 42 U.S.C. §1983.

C. This Petition for Writ of Certiorari should be granted because the Ninth Circuit’s decision conflicts with the decisions of this Court, with other Ninth Circuit decisions, and with the decisions of every other circuit court of appeals that has addressed the *Rooker-Feldman* doctrine since *Exxon*.

Supreme Court Rule 10 sets forth considerations governing review on *certiorari*. The character of the reasons the Court considers are set forth in Rules 10(a)-(c), which are satisfied in the present circumstances for three different reasons:

1. The Ninth Circuit decision conflicts with the decisions of this Court.

See the prior discussion of the conflict with *Exxon*, *Lance*, and *Skinner*. Supreme Court Rule 10(c).

2. The present decision conflicts with the earlier decisions of the Ninth Circuit itself.

The decision departs from the accepted and usual course of judicial proceedings, creating a split between

the panels of the Ninth Circuit. Supreme Court Rule 10(a).

The Ninth Circuit decision directly conflicts with prior Ninth Circuit decisions rendered since *Exxon*, including for example *Morrison v. Peterson*, 809 F.3d 1059, 1070 (9th Cir. 2015); *Mothershed v. Justices of Supreme Court*, 410 F.3d 602, 606 (9th Cir. 2005); *Manufactured Home Communities Inc. v. City of San Jose*, 420 F.3d 1022, 1029-1030 (particularly fns. 8-9) (9th Cir. 2005); and *Vacation Village, Inc. v. Clark County, Nev.*, 497 F.3d 902, 911 (9th Cir. 2007) (“Thus, *Rooker-Feldman* applies only when the federal plaintiff both asserts as her injury legal error or errors by the state court and seeks as her remedy relief from the state-court judgment.”).

3. The Ninth Circuit decision conflicts with the decisions of every other circuit which has addressed the *Rooker-Feldman* doctrine, rendered since *Exxon*.

The present Ninth Circuit decision is also in direct conflict with decisions of every one of the other Courts of Appeals, except the Federal Circuit, where there appear to be no decisions addressing the issue. Supreme Court Rule 10(a).

The following list includes only one illustrative decision from each Circuit, but there are many more. The guiding principle of *Exxon*, that *Rooker-Feldman* applies only to federal-court cases “inviting district court review and rejection of those [state-court] judgments,”

appears to be universally adopted by every Circuit, except the decision of the Ninth Circuit in the present case (App. 1-2 and App. 7): *Federacion de Maestros de Puerto Rico v. Junta de Relaciones*, 410 F.3d 17, 23-24 (1st Cir. 2005); *Green v. Mattingly*, 585 F.3d 97, 102-103 (2d Cir. 2009); *Great Western Mining & Mineral Co. v. Fox Rothschild LLP*, 615 F.3d 159, 166 (3d Cir. 2010); *Adkins v. Rumsfeld*, 464 F.3d 456, 463 (4th Cir. 2006); *Del-Ray Battery Co. v. Douglas Battery Co.*, 635 F.3d 725, 729 (5th Cir. 2011); *Fieger v. Ferry*, 471 F.3d 637, 640 (6th Cir. 2006); *Kelley v. Med-1 Solutions, LLC*, 548 F.3d 600, 603 (7th Cir. 2008); *Robins v. Ritchie*, 631 F.3d 919, 925 (8th Cir. 2011); *Guttman v. Khalsa*, 446 F.3d 1027, 1031-1032 (10th Cir. 2006); *Nicholson v. Shafe*, 558 F.3d 1266, 1274 (11th Cir. 2009); *Singletary v. District of Columbia*, 766 F.3d 66, 71 (D.C. Cir. 2014).

Supreme Court Rule 10 notes, “A petition for a writ of certiorari is rarely granted when the asserted error consists of erroneous factual findings or the misapplication of a properly stated rule of law.” This observation is not applicable here. As to the first part, in the present case, factual findings are not at issue. As to the second part, the Ninth Circuit did not properly state the applicable rule of law. Instead, the Ninth Circuit refused to state, address, or consider the applicable rule of law, *Exxon* and related authority. (App. 1-2 and 7)

D. Uniformity of application of the *Rooker-Feldman* doctrine, especially in the context of a federal civil-rights lawsuit, is a matter of exceptional importance requiring national uniformity.

1. *Stare decisis* demands that the Ninth Circuit follow *Exxon*, *Lance*, and *Skinner*.

The refusal of the Ninth Circuit to acknowledge the existence of, and to follow, *Exxon*, *Lance*, and *Skinner* is a straightforward violation of, and challenge to, this Court's supreme authority in the judicial system of the United States. The Ninth Circuit did not consider this Court's precedent and distinguish it or find it inapplicable. Instead, the Ninth Circuit ignored this Court's precedent, thereby rejecting this Court's authority. (App. 1-2 and 7)

This Court has repeatedly emphasized the importance of the doctrine of *stare decisis*, see for example *Kimble v. Marvel Entertainment, LLC*, 135 S.Ct. 2401, 2409-2410 (2015). In addressing whether a panel of the Ninth Circuit must follow the legal approach of prior panels, *Miranda v. Selig*, 860 F.3d 1237, 1243 (9th Cir. 2017), held, “Further, under the law-of-the-circuit rule, ‘[w]e are bound by decisions of prior panels’ [sic] unless an *en banc* decision, Supreme Court decision, or subsequent legislation undermines those decisions.” The panel and the Ninth Circuit *en banc* in the present case refused to follow this Court's controlling precedent of *Exxon*, *Lance*, and *Skinner*. They also refused to adhere to the Ninth Circuit's own “law-of-the-circuit

rule" of *Miranda* requiring that they follow the decisions of *Morrison*, *Mothershed*, *Manufactured Home Communities*, and *Vacation Village*.

But the significance of this error by the Ninth Circuit goes well beyond a simple refusal to acknowledge the role of *stare decisis*.

2. The Ninth Circuit's refusal to follow this Court's precedent on the *Rooker-Feldman* doctrine denies Petitioner the opportunity to vindicate his civil rights.

Petitioner appreciates that every departure from precedent does not warrant exercise of this Court's *certiorari* jurisdiction.

However, the correct application of the *Rooker-Feldman* doctrine is a matter of exceptional importance, as demonstrated by the fact that this Court addressed the issue three times in a period of six years, all within the last 13 years: *Exxon*, 544 U.S. 280 (2005); *Lance*, 546 U.S. 459 (2006); and *Skinner*, 562 U.S. 521 (2011).

As observed in *Exxon*, the *Rooker-Feldman* doctrine had been misconstrued by many lower courts to "extend far beyond the contours of the *Rooker* and *Feldman* cases." A review reveals that many of the overextensions were to the same effect as the present decision. Courts misapplied the *Rooker-Feldman* doctrine to avoid addressing the substantive issues of a federal lawsuit, such as a civil-rights lawsuit. The misapplication of the *Rooker-Feldman* doctrine provided a

convenient way of discarding possibly meritorious lawsuits on a jurisdictional theory, so that lower courts could avoid addressing the merits of the federal lawsuit. Such an approach was particularly common where the plaintiff was representing himself, as in the present case, in a civil-rights lawsuit. See, for example, pre-*Exxon* decisions of the Ninth Circuit in *Fairfield v. Gantz*, 22 Fed.Appx. 928 at *1 (9th Cir. 2002) and *Haywood v. San Bernardino County*, 17 Fed.Appx. 715 at *1 (9th Cir. 2001), both misapplying the *Rooker-Feldman* doctrine. Such decisions were typically founded solely on a conclusion that consideration of the federal civil-rights suit required “review” of the underlying state-court judgment, without regard to whether “rejection” of the state-court decision was sought by the plaintiff. Most post-*Exxon* decisions of the Ninth Circuit recognized that *Rooker-Feldman* was not implicated unless “rejection” was also sought, even where the plaintiff was representing himself. See, for example, *Young v. Bishop Estate*, 497 Fed.Appx. 735, 737 (9th Cir. 2012), stating, “Although Young’s negligence claim arises out of the same set of underlying facts that are the subject of ongoing probate proceedings in the Hawaii courts, it does not seek relief from a state-court judgment. Therefore, *Rooker-Feldman* does not apply.”

The decision of the Ninth Circuit in the present case amounts to a return to these days before *Exxon*. The approach of the Ninth Circuit of incorrectly applying *Rooker-Feldman* subverts the will of Congress and the Supreme Court by creating an absolute jurisdictional bar to any recourse by a wronged litigant against the state court.

E. The Ninth Circuit's decision thwarts the policy of Congress and this Court to encourage the vindication of civil rights.

The federal action alleges violations of civil rights under 42 U.S.C. §1983, the Fourteenth Amendment of the United States Constitution, and Article 1 §8(5) of the Constitution of the State of Nevada (App. 11-13). The relief sought did not include "review and rejection" of the underlying state-court judgments. (App. 26-28)

This Court has emphasized that parties should be given every opportunity to vindicate Constitutional rights on the merits. *City of Riverside v. Rivera*, 477 U.S. 561, 574-575 (1986) held: "Congress has determined that the public as a whole has an interest in the vindication of the rights conferred by the statutes enumerated in §1988, over and above the value of a civil-rights remedy to a particular plaintiff. . . . Congress expressly recognized that a plaintiff who obtains relief in a civil-rights lawsuit does so not for himself alone but also as a private attorney general, vindicating a policy that Congress considered of the highest importance. House Report, at 2 (quoting *Newman v. Piggie Park Enterprises, Inc.*, 390 U.S. 400, 402 (1968))." [internal quotation marks omitted]

The Ninth Circuit's decision seeks to defeat the Congressional policy of encouraging vindication of civil rights, by erecting a barrier in the form of the misapplication of the jurisdictional *Rooker-Feldman* doctrine in direct contravention of *Exxon*, *Lance*, and *Skinner*, and consistent decisions.

CONCLUSION

This Court should grant *certiorari* to address the refusal of the Ninth Circuit to follow this Court's precedent of *Exxon*.

Respectfully submitted,

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