

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

EDWARD VINCENT RAY, JR. — PETITIONER
(Your Name)

VS.

UNITED STATES DISTRICT COURT
OF NORTHERN CALIFORNIA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Ninth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

EDWARD VINCENT RAY, JR. F73521
(Your Name)

P.O. Box 705
(Address)

Solelado, CA. 93960
(City, State, Zip Code)

N/A
(Phone Number)

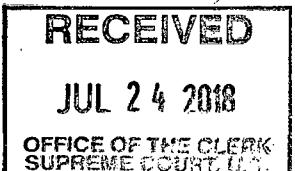


TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Buck v. Davis, 137 S. Ct. 759 (2017)	- 5
Gonzalez v. Crosby, 545 U.S. 524 (2005)	- 5
Liljeberg v. Health Servs. Acquisition Corp, 486 U.S. 847 (1988)-5	

STATUTES AND RULES

U.S. Const Amend V
U.S. Const Amend XIV
Fed. R. Civ. P. Rule 60 (b)
28 U.S.C. § 1254
United States Supreme Court Rules, Rule 13 (3)

OTHER

State Decisions

QUESTION(S) PRESENTED

1. Whether the United States District Court of Northern California abused its discretion by construing Petitioner's Federal Rules of Civil Procedure Rule 60 (b) motion to be a "successive petition"?
2. Whether the United States District Courts' ruling was contrary to the clearly established law of this Court's decisions in Gonzalez v. Crosby, 545 U.S. 524, 535 (2005) and/or this Court's decision in Buck v. Davis, 137 S.Ct. 759, 766 (2017) and Liljeberg v. Health Servs. Acquisition Corp., 486 U.S. 847, 864 (1988)
3. Whether the United States Court of Appeals for the Ninth Circuit's decision, denying petitioner's request for a Certificate of Appealability on the United States District Court of Northern California's ruling above was objectively unreasonable and "contrary to" clearly established federal law?
4. Whether Petitioner is entitled to have his Federal Rules of Civil Procedure Rule 60 (b) motion adjudicated on the merits?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Matthew Cate, Sec. of Dept. of Corrections & Rehabilitation
for the State of California

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INDEX TO APPENDICES

APPENDIX A - opinion of the United States court of appeals;

APPENDIX B - opinion of the United States District court;

APPENDIX C - denial of petition for rehearing by United States Court of appeals;

APPENDIX D - Rule 60 (b) motion and two (2) exhibits in support thereof.

APPENDIX E

APPENDIX F

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: April 20, 2018, and a copy of the order denying rehearing appears at Appendix C.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. _____.

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

For cases from **state courts**:

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

the Fifth and Fourteenth Amendments state in part: "nor shall any state deprive any person of life, liberty, or property, without due process of law." U.S. Const. Amend V., and XIV.

The Fourteenth Amendment further states in part: "nor deny to any person within its jurisdiction the equal protection of the laws".
U.S. Const. Amend XIV

United States Constitution

Amend. V

Amend XIV

28 U.S.C.

§ 1254

United States Supreme Court Rules

Rule 13 (3)

Fed. R. Civ. P. Rule 60 (b)

STATEMENT OF THE CASE

- 1) On August 24, 2017, petitioner filed a Rule 60 (b) motion in the United States District court of Northern California alleging that that Court made numerous mistakes pertaining to the excerpts in the record, and failed to consider the properly filed evidence that petitioner submitted to it, in support of petitioner's properly filed Traverse. (See Appendix D, included herein)
- 2) On January 23, 2018, the District Court "Denied" petitioner's Rule 60 (b) motion because, "this motion is untimely by many years," and because, "Petitioner's motion attempts to raise new grounds for habeas relief, it is a tantamount to an unauthorized second or successive habeas petition over which this court lacks jurisdiction..." (See Appendix B, at pgs. 1:27-2:1, included herein)(emphasis added)
- 3) Petitioner's basis/grounds for filing the Rule 60 (b) motion was clear, and to the point, directing the District Court to the numerous mistakes that court made, that petitioner "just realized" thus justifying the requested relief by way of the Rule 60 (b) motion, and including excerpts of the trial record he relied upon, as well as excerpts of the orders/opinions of one state court, and the District Courts erroneous orders demonstrating their mistakes. (See Appendix D, w/ exhibits, included herein)
- 4) Petitioner's 60(b) motion, complies with the applicable rules of the Federal Rules of Civil Procedure to obtain relief, pursuant to that section.

REASONS FOR GRANTING THE PETITION

1. The rulings of both the United States Court of Appeals for the Ninth Circuit and the United States District Court of Northern California are "contrary to" clearly established federal laws.
2. Jurists of reason would find it debatable whether the district court abused its discretion in denying the Rule 60 (b) motion.
3. The panel decision of the United States Court of Appeals for the Ninth Circuit, conflicts with several decisions of this Court. See Liljeberg v. Health Servs. Acquisition Corp, 486 U.S. 847, 864 (1988); Gonzalez v. Crosby, 545 U.S. 524 (2005); Buck v. Davis, 137 S. Ct. 759, 766 (2017)
4. This proceeding involves one or more questions of exceptional importance, i.e., the lower federal courts decisions conflict with the authoritative decisions of this Court, that have addressed this same issue.
5. The lower federal courts are NOT adhering to the doctrine of the Stare Decisis.
6. Petitioner's Rule 60 (b) motion is identical to those filed by the petitioners in the cases above, thus, he is entitled to the same protection of the law, that allowed those petitioners to have their Rule 60 (b) motions adjudicated.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Date: / / 2018