

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

UIKI TEAUPA — PETITIONER
(Your Name)

vs.

UNITED STATES OF AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

NINTH CIRCUIT COURT OF APPEALS
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Uiki Teaupa, Reg. No. 00332-122
(Your Name)

FMC Fort Worth, P.O. Box 15330
(Address)

Fort Worth, Texas 76119
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

Does the Fifth and Sixth Amendment to the U.S. Constitution entitle A Pro Se Defendant the right to have (1) discovery conducted on his claims of government misconduct not investigated by his previous defense counsel without having to submit a request to do so, and (2) an Evidentiary Hearing to present testimony in support of his claims in the 28 U.S.C. §2255 proceedings?

If the U.S. Constitution does in fact guarantee such right to a Pro Se Defendant does the district court reviewing the §2255 petition adversely affect the integrity of the proceedings by not affording such right to the Defendant?

LIST OF PARTIES

~~XXX~~ 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:

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Buck v. Davis, 137 S.Ct. 759 (2017)	6
Gonzalez v. Crosby, 545 U.S. 524, 531-33 (2005)	6
Slack v. McDaniel, 529 U.S. 473, 484 (2000)	6
United States v. Washington, 653 F.3d 1057, 1064 (9th Cir. 2011)	5
United States v. Winkles, 795 F.3d 1134, 1143 (9th Cir. 2015)	6

STATUTES AND RULES

28 U.S.C. §2255	PASSIM
Rule 6 of the Rules Governing Section 2255 Proceedings	PASSIM
Federal Rules of Civil Procedure 60(b)	5

OTHER

Fifth Amendment to U.S. Constitution	3
Sixth Amendment to U.S. Constitution	3

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APPENDIX A	- Copy of Order Denying Rule 60(b) Motion and Certificate of Appealability by U.S. District Court for the District of Hawaii...
APPENDIX B	- Copy of Order Denying Certificate of Appealability by the Ninth Circuit Court of Appeals, dated April 20, 2018.
APPENDIX C	- Copy of Order Denying Petition for Panel Rehearing and En Banc Hearing by the Ninth Circuit Court of Appeals, dated June 25, 2018.
APPENDIX D	N/A
APPENDIX E	N/A
APPENDIX F	N/A

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

~~xxx~~ For cases from **federal courts**:

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

☐ reported at N/A; or,

☐ has been designated for publication but is not yet reported; or,

~~xxx~~ is unpublished.

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

☐ reported at N/A; or,

☐ has been designated for publication but is not yet reported; or,

~~xxx~~ is unpublished.

☐ For cases from **state courts**: N/A

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

☐ reported at N/A; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

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

☐ reported at N/A; 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 April 20, 2018.

☐ 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: June 25, 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. A.

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

☐ For cases from state courts: N/A

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

☐ A timely petition for rehearing was thereafter denied on the following date: N/A, 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 N/A (date) on N/A (date) in Application No. A.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case implicates the U.S. Constitution's guarantee to Due Process of law as inscribed in the Fifth Amendment, which declares:

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment of indictment of a Grand Jury,... nor be deprived of life, liberty, or property, without due process of law;..."

and the Sixth Amendment's guarantee that a person facing the loss of liberty will have:

"[C]ompulsory process for obtaining witnesses in his favor,..."

STATEMENT OF THE CASE

Mr. Teaupa declares that he has been deprived his constitutional right to Due Process and that such deprivation has led to the adverse decisions reached by the U.S. District Court for the District of Hawaii and the Court of Appeals for the Ninth Circuit.

It is Mr. Teaupa's belief and understanding that the U.S. Constitution requires the U.S. District Courts to order discovery for Pro Se defendants when their 28 U.S.C. §2255 Motion presents claims of Government misconduct and ineffective assistance of counsel.

For said reasons he requests that this Court provide the necessary instructions to the lower courts as how to proceed in his case in order to ensure that his procedural rights are protected as mandated by the U.S. Constitution.

REASONS FOR GRANTING THE PETITION

Mr. Teaupa believes that the U.S. Constitution guarantees him as a Pro Se defendant the right to have an order of discovery and an evidentiary hearing without having to request one before the U.S. District Court reviewing his 28 U.S.C. §2255 Motion.

In his §2255 Motion Mr. Teaupa raised claims of Government misconduct and ineffective assistance of counsel. The District Court did not summarily dismiss the Motion but rather issued an Order directing the Government to respond. In their Response the Government denied the claims and Mr. Teaupa responded but failed to request an order of discovery or an evidentiary hearing. In response to the pleadings the District Court denied the §2255 Motion without conducting further investigation.

Subsequently Mr. Teaupa filed a Rule 60(b) Motion seeking the vacatur of the denial of his §2255 Motion. The District Court denied the Motion stating that "But because Teaupa never requested any discovery, 'there was simply no reason for the court to grant Teaupa the right to conduct discovery'". Order Denying Certificate of Appealability. Document 167, Page 4, Paragraph 3. The District Court continued by stating that pursuant to *United States v. Washington*, 653 F.3d 1057, 1064 (9th Cir. 2011), the ground Mr. Teaupa was raising, that being that the district court adversely affected the integrity of the §2255 proceedings by not holding an evidentiary hearing was a "claim" on the merits of the §2255 petition and improper for a Rule 60(b) Motion. See

Gonzalez v. Crosby, 545 U.S. 524, 531-33 (2005). The District Court finalized its decision by citing United States v. Winkles, 795 F.3d 1134, 1143 (9th Cir. 2015) in order to deny a Certificate of Appealability.

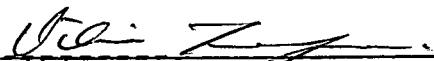
Mr. Teaupa sought a COA from the Ninth Circuit pursuant to the standards set in Slack v. McDaniel, 529 U.S. 473, 484 (2000) and Buck v. Davis, 137 S.Ct. 759 (2017), but was denied due to the Appeals Court's belief that the ground raised, that being that the integrity of the §2255 proceeding was affected by the District Court's failure to order discovery and an evidentiary hearing.

For said reasons Mr. Teaupa asks this Court to intervene and answer the question of whether a Pro Se defendant claiming serious government misconduct and ineffective assistance of counsel is entitled to conduct discovery and obtain an evidentiary hearing, and if such proceedings are not held does that affect the integrity of the §2255 proceedings?

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



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