

No. \_\_\_\_\_

IN THE

SUPREME COURT OF THE UNITED STATES

JOSE FRANCISCO PUENTES — PETITIONER

(Your Name)

vs.

CHARLES L. RYAN et al — 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

Jose Francisco Puentes Adoc #310033

(Your Name)

Arizona state Prison - Meadows Unit P.O. Box 3300

(Address)

Florence, Arizona 85132

(City, State, Zip Code)

(520) 868-0201

(Phone Number)

## LIST OF PARTIES

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

X 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:

*The Attorney General of the state OF Arizona*

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## TABLE OF AUTHORITIES CITED

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## STATUTES AND RULES

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## OTHER

QUESTION(S) PRESENTED

Ground One: ~~IS~~ Arizona Revised Statute 13-1410  
Unconstitutional in Violation of Petitioner's  
14th Amendment Rights to the Federal Constitution?

Ground TWO: Was Petitioner's 6th Amendment Rights to the  
Federal Constitution violated by the Ineffective  
Assistance of Counsel in this case?

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 \_\_\_\_\_ 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[ ] is unpublished.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 \_\_\_\_\_ 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[ ] is unpublished.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[ ] is unpublished.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 August 3, 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: \_\_\_\_\_, 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. \_\_ A \_\_\_\_\_.  
\_\_\_\_\_

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 10/4/2017.  
A copy of that decision appears at Appendix B.

[ ] 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. \_\_ A \_\_\_\_\_.  
\_\_\_\_\_

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

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Constitutional Provisions:

United States Constitution, Amendment VI

United States Constitution, Amendment XIV

The Sixth Amendment to the United States Constitution provides in relevant part: "In all criminal prosecutions, the accused shall have assistance of counsel for his defense."

The Fourteenth Amendment to the United States Constitution provides in relevant part: "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 law."

## STATEMENT OF THE CASE

Petitioner claims that his trial and post-conviction relief attorneys were ineffective in not arguing that A.R.S. 13-1410 was unconstitutional. Petitioner cites *MAY v Ryan* 245 F. Supp. 3d 1145, 1168 (D. Ariz. 2017) (finding it was not harmless error to require defendant to prove a lack of sexual intent under the facts of child molestation trial). Petitioner argues that cause for default was external to the defense because ineffective assistance of counsel "cannot fairly be attributed to him. *Strickland v Washington*, 466 U.S. 668, 687 (1984). That in this case petitioner argued that both counsels deficiently and their performed deficiently by failing to advise petitioner regarding the sexual intent burden shifting and that the United States District Court decision in *MAY v Ryan* demonstrated prejudice because May's case established a reasonable probability that any defense regarding sexual intent would succeed. Petitioner's claims are unexhausted because he was abandoned by his appeal attorney in his Rule 32 petition and that he had to search for a legal inmate to help him on his Rule 32 Petition because this is petitioner first time in prison and he does not have any education about the legal system, so he depend on this inmate to help him in his criminal appeal. Petitioner claims that the inmate told him to go straight to the United States District Court, because Arizona Court of Appeals and because Arizona Supreme Court will not give him relief and that he would be wasting his time and efforts. Petitioner did not know what to do, so he told the inmate do what he said, because the inmate said that he have helped many inmates get their case overturned. So petitioner paid the legal inmate fee to help him with his legal work. After the inmate filed his legal paper in the District Court, the inmate was released and now another inmate is trying to correct the mess this inmate have done to petitioner in this case. Petitioner listen to this inmate and now he's procedurally defaulted and it's because his Rule 32 attorney abandon him in this case was ineffective assistance of counsel that forced him to rely on an inmate to argue his legal issues in this case.

#### REASONS FOR GRANTING THE PETITION

Petitioner claims that his 6th Amendment Rights to the Federal Constitution has been violated by the ineffective assistance of counsel abandoning him in his Rule 32 petition in this case.

Petitioner claims that his 14th Amendment Rights to the Federal Constitution has been violated, because his due process was violated by the Arizona Courts that would not allow him relief in the Mays v Ryan Case in the decision of the United District Court of Arizona.

## **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

  
\_\_\_\_\_  
Date: 8-28-18