

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

John Quintero — PETITIONER
(Your Name)

VS.

State of Nevada — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Supreme Court of the State of Nevada
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

John Quintero
(Your Name)

PO Box 7007
(Address)

Carson City NV 89702
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1. Is a state director over a division prevented by the U.S. Constitution from assigning the duties of legislative mandate of NRS 176.156 to the judicial branch to be carried out by district court judges rather than by executive branch administrators? (see Appx E)
2. Does the resulting lack of administrative written notice of NRS 176.156, and opportunity to exercise rights thereof, cause constitutional harm ten (10) years later when the fact-free data of the unchallenged pre-sentence report is used by prison-staff parole recommendations to deny parole, when the prison continues policy of depriving the inmate opportunity to make written objections against fact-free data relied on by government to delay release by denial of full and fair consideration;
3. Does the state court of appeals violate the rule of reason and constitution by adopting the district trial courts finding that appellant had "reasonable opportunity" to raise an appeal or habeas petition, or does evidence of omission admitted by state constitute "some inference by officials? Murray v Carrier 477 US 478

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:

JAMES WRIGHT, Director of Nevada Dept. of Pub. Safety
JAMES DZURENDA, Director, Nevada Dept. of Corrections

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	—
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED.....	—
STATEMENT OF THE CASE	—
REASONS FOR GRANTING THE WRIT.....	—
CONCLUSION	—

INDEX TO APPENDICES

APPENDIX A *Decision of State Court of Appeals*

APPENDIX B *Decision of the State Trial Court*

APPENDIX C *Decision of Appellate Court Denying
Rehearing*

APPENDIX D *Order of State Supreme Court Denying
Rehearing*

APPENDIX E *NRS 176.156(1)(b)*

APPENDIX F *Third District Court Example of failure
to Amend PSI, creating anomaly and
conflict of law*

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Murray v Carter 477 US 478	3

STATUTES AND RULES

State Statute NRS 176.165(1)(b) opportunity to
object by parties

OTHER

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 A to the petition and is Court of Appeals No. 72-885

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

The opinion of the 2nd Judicial 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.

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: _____, 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 February 13 2018. A copy of that decision appears at Appendix A.

A timely petition for rehearing was thereafter denied on the following date: June 22 2018, and a copy of the order denying rehearing appears at Appendix D.

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

Separation of Powers Doctrine, Implied

First Amendment, redress grievances clause

Fifth Amendment deprivation of state created liberty interest in legislative benefit of administrative process;

Sixth Amendment confrontation clause violated by state government act of omission of implementing legislatively mandated notice and opportunity to rebut pre-sentence report;

Eighth Amendment implicated where deprival of process reduces full consideration, or "totality of circumstances" causing increased length of incarceration;

Fourteenth Amendment Sec. 1 deprivation clause offended by state governments act of omission
State statute NRS 176.165(1)(b)

STATEMENT OF THE CASE

1. Attached at Appendix E is copy of NRS 176.156 (1)(b), which was violated in 2006 when, shortly before sentencing, he was handed a copy of the PSI, and 10 minutes before sentencing handed the Psychosexual Evaluation, but in neither case was he afforded the opportunity to object to factual errors therein;
2. "Afforded" means in the parlance of administrative law governing executive branch actions, a clear notice of the statutorily granted process, usually in writing, and an actual opportunity to that process, usually conveyed by the beneficiary of that process in writing; normally when an executive branch agency governed by the state Administrative Procedure Act offers a benefit, on the back of applications and subsequent granting or denial notices, on the backs of these applications and official notices there are clear statements of legal remedies and descriptions of procedural and substantive rights;
3. NRS 176.156 (1)(b) is addressed to the "Division" which means in this case the Division of Parole (D&P) which operates as an entity of the Nevada Department of Public Safety, a sub-division of the state of Nevada Executive Branch;
4. Both the Department and Division of D&P is governed in its rulemaking process by the state's Administrative Procedure Act;
5. No normal rulemaking process was triggered by the passage of NRS 176.156 (1)(b)-- it was ignored, and resulted in the deprivation of notice and opportunity,

STATEMENT OF CASE (Continued)

6) the deprivation of the statutorily granted liberty interest came back to haunt the appellant when the Department of Corrections created a report and recommendation for denying parole after a mandatory completion of ten years service; he inquired at the time of the ADOC report about the scandalous content and he was told at that time it was ADOC policy to utilize the OPS/DPP document verbatim; no official has disclosed what law allows parole recommendation to be determined by the content of the PSI; especially unchallenged errors;

7,) therefore, there exists an actual and constructive, direct and remote, formal, material and effective causal relation between OPS's and its Division's act of omission and the resulting consequence of not getting a full and fair consideration for demonstrating his fitness and likelihood of success on parole;

REASONS FOR GRANTING THE PETITION

1. The maintenance of fair and constitutional state executive branch rulemaking procedural safeguards is a matter of national significance because the issue calls into question the fundamental integrity of state Administrative Procedures Acts; the state has in effect made a clear administrative mandate non-operational -- the state response to the appellants claims fails to provide any of the rulemaking records; from this failure can be inferred guilt -- quiet consent it; it is this courts inherent duty of the U.S. Supreme Court, by the supremacy clause, to insure the protection of the judicial system is independent from the executive branch, not the handmaid of the coercive police powers of local government; the state admits that they have pushed the administrative chore required by NRS 176.156(1)(b) by citing to a court case involving the same statute raising an entirely different issue. In Appendix B the trial court points to the Supreme Court decision Stockmeyer v State 255 P3rd 209 finding that: PSI objections "must be raised on direct appeal." [pg 5 in 17]

But wait a minute! Who legislated that rule? The NRS states at 176.156 (1)(b) makes the objections to the police-generated PSI to be an administrative procedure! Why is the state judicial branch not getting that? It is clear on the face of the statute that it is not a grant of jurisdiction on the PSI challenge. Nevada is a limited jurisdiction, except, apparently, when the hard-on-crime gender agenda finds it politically advantageous to, by political fiat turn an administrative procedure into a juridical one;

REASONS FOR GRANTING THE PETITION

2. There is a clear anomaly going on in the state of Nevada that could easily infect the rest of the nation: It does what it wants, not what the legislature requires it to do. The Stockmeier case presupposes that a proper set of regulatory procedures took place and the mandate of NRS 176.156(1)(b) has been properly put in place. The appellant's issue drove to that issue alone, that without an administrative record in place, the court has nothing to review. So by shoving procedures under the rug, the criminal justice administrative has succeeded in circumventing the concerns of the legislature in making the long-term effects of the PSI accurate.
3. Attached at Appendix F is offered to show the effects of the demagogic emasculation of NRS 176.156; The court sentencing transcript of this case of a next friend inmate has multiple pgs. devoted to problems with the PSI. Instead of ordering the making of changes in the PSI, the court merely states he did not "adjudicate" or use false information, even though the defendant in that case demanded charges. The reason the court did not make changes is that he or she has no jurisdiction to do so in a limited jurisdiction state. The PSI can be challenged for veracity by the defendant. In this case the remedy requested from the courts was an order to the executive branch to do what it ought to have done 12 years ago--give me notice and written opportunity to rebut the false information.

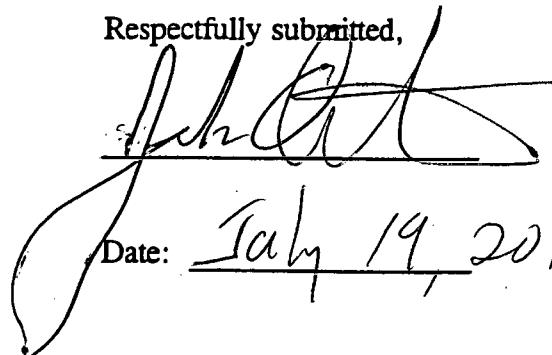
Reasons for Granting the Petition

4. To clarify Murray v. Carrier, and the vague notion of what is termed "some interference by officials" and "impediments external to defense" and whether such state administrative omissions and neglect of legislative mandates is "cause" under Murray;

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



John O. H.

Date:

July 19, 2018