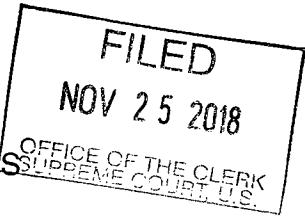


18-7159 ORIGINAL
No. _____

IN THE
SUPREME COURT OF THE UNITED STATES



ANDREW MARK LAMAR — PETITIONER
(Your Name)

vs.

JOHN O'DELL, et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

OFFENDER LAMAR 113997
(Your Name)

Fremont Correctional Facility (FCF) Box 999
(Address)

Canon City, CO 81215
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

- I. WHETHER REASONABLE JURISTS WOULD FIND THE DISTRICT COURT'S RESOLUTION OF PETITIONER'S DUE PROCESS CLAIM DEBATABLE OR WRONG WITH RESPECT TO EXTENDING A LIBERTY INTEREST IN DISCRETIONARY PAROLE-RELEASE HEARINGS FOLLOWING EXPIRATION OF LOWER-END SENTENCE FOR PURPOSES OF ACCORDING ADEQUATE REVIEW PROCEDURES, AND;
- II. WHETHER REASONABLE JURISTS WOULD FIND THE DISTRICT COURT'S RESOLUTION OF PETITIONER'S CONTENTION THAT THE THIRD CIRCUIT HOLDING IN *Block v. Pohler*, 631 F.2d 233 (3d Cir. 1980), SHOULD BE FOLLOWED HERE, THUS RECONCILING SPLITS BETWEEN CIRCUITS, DEBATABLE OR WRONG?

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:

Colorado State Board of Parole

Colorado Attorney General

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 :	ORDER OF DISMISSAL , United States District Court for the District of Colorado ; No. 16-cv-02808-MJW
APPENDIX B	ORDER DENYING CERTIFICATE OF APPEALABILITY, United States Court of Appeals for the Tenth Circuit, No. 18-1270
APPENDIX C	ORDER DENYING PETITION FOR REHEARING, United States Court of Appeals for the Tenth Circuit, No. 18-1270
APPENDIX D	
APPENDIX E	
APPENDIX F	

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Specht v. Patterson, 386 U.S. 605 (1967)	6
People v. Stren, 74 P.3d 387 (Colo. App. 2002)	5
People v. Oglethorpe, 87 P.3d 129 (Colo. App. 2003)	5
People v. Dash, 109 P.3d 286 (Colo. App. 2004)	5

STATUTES AND RULES

Colorado Sex Offender Lifetime Supervision Act of 1998	
Colo. Rev. Stat. §§ 18-1.3-1001 - 1010	4,5
§ 18-1.3-1004	4

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 B 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 A 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 October 16, 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: November 5, 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**:

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. A _____.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Due Process of law - - - - - Impression

STATEMENT OF THE CASE

This matter involves the State's Sex Offender Lifetime Supervision Act of 1998, Colo. Rev. Stat. §§ 18-1.3-1001, et seq., which has not withstood review by either this Court or the Colorado Supreme Court. Alas, the intermediate court of appeals has half-heartedly upheld its constitutionality, save that neither defendant-appellant has been considered justiciable, thereby rejecting any challenges on standing; since they were not past their lower-end maximum presumptive sentences in order to be considered for release from the upper-end, natural life, indeterminate sentence, which is largely based on factors such as dangerousness, rehabilitation, and whether there is a threat to the community. See Colo. Rev. Stat. §§ 1002(1)(a); 1006(1)(2), respectively.

My contention, inter alia, is that the indeterminate sentencing provision runs afoul of due process, only with respect to whether adequate review procedures should be afforded those whom are serving potential life sentences for a lesser felony offense; whereupon incarceration is intended to no longer punish but to impose treatment and rehabilitation, strictly on the bases that I am a convicted sex offender.

REASONS FOR GRANTING THE PETITION

The "Lifetime Act" is clear with respect to indeterminate sentencing for certain felony sex offenses, without change to felony sex offenses. Though the legislative declaration demonstrates a clear intent not to increase the punishment of sex offenders, the indeterminate term is to ensure that, when necessary, convicted sex offenders receive treatment and supervision for the remainder of their lives. Colo.Rev.Stat. § 18-1.3-101.

Here, there is a debatable issue the Tenth Circuit has side-stepped in reference to whether the expiration of my lower-end (punishment for the felony sex offense) ^{sentence} implicates due process (i.e., liberty interest in adequate review procedures). The State Court of Appeals has implied as much when they refused to address this question, and instead rejected similar contentions by stating that the arguments were premature since neither defendants' lower-end sentence had expired. See People v. Stream, 74 P.3d 387, 394 (Colo. App. 2002) (concluding argument is premature where it is asserted that the [Lifetime] Act contains no provisions for review of the decisions by CDOC or Parole Board relating to release); People v. Oglethorpe, 87 P.3d 129, 134 (Colo. App. 2003) (same); People v. Dash, 104 P.3d 286, 292 (Colo. App. 2004) (same). This State nor the Tenth Circuit has decided this... Hence the debate.

The principal reason this Most Dignified and Beneficent Tribunal should take up this case is to vindicate my right under procedural due process against this arbitrary justification for imposing treatment and rehabilitation vis-à-vis a natural life sentence of imprisonment.

Let the precient words of the great William O. Douglas imbibe a ~~realistic~~ sense of duty to breath life into these guarantees from the Bill of Rights in the form of adequate review procedures, of which penumbras, produced as emanations, intended to give them life and substance anew. It should be noted that this Court followed the same reasoning as my contention when it struck down Colorado's 1967 Lifetime Act, which functioned under a similar guise now. See Specht v. Patterson, 386 U.S. 605 (1967).

May this Court consider this case on several fronts.

CONCLUSION

The petition for a writ of certiorari should be granted. So help me **(G)**.

Respectfully submitted,



Date: _____