

No. 18-7710

ORIGINAL

Supreme Court, U.S.
FILED

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IN THE

SUPREME COURT OF THE UNITED STATES

Jose Garcia Mejia — PETITIONER
(Your Name)

VS.

Shawn Hatton, Warden — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. Court of Appeals for the Ninth Circuit, #17-17206
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Jose Garcia Mejia
(Your Name)

Correctional Training Facility
(Address)

P.O. Box 705
Soledad, CA 93960

(City, State, Zip Code)

N/A

(Phone Number)

QUESTION(S) PRESENTED

Were Petitioner's constitutional Rights violated during trial? When Petitioner had no realistic chance of prevailing and the record was silent as to whether He understood. This is a reversible error because the Trial Court failed to advise him of the full panoply of constitutional rights he was waiving. See: Argument's one and two, in which Petitioner presents the issue that is unresolved by the Court's previous pronouncements as to whether the test of prejudice when a defendant is not adequately advised of his constitutional rights following a BUNNELL, plea is whether the record adequately demonstrates that he would not have waived his Rights if he had been aware he would likely be convicted.

Also, were the Rights afforded to a State Prisoner to file federal writ of habeas corpus petition raising constitutional violations made void by the Court for lack of administrative processing in a timely fashion and thereby the time to file a timely petition under AEDPA lapsed. Should the Petitioner be made to bare the weight of this error? and hence lose his Right afforded under the due process clause of 5th and 14th amendments of the U.S. const.?

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:

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APPENDIX E Court order from Norhter District of California
denying pwtition on Case No. 5:16cv04772EJD
Dated October 10, 2017.

APPENDIX F Court order form the U.S. Court of Appeals for
the Nibbb Circuit. Case No. 17-17206,
Dated June 26, 2018.

APPENDIX G Docket for Case No. 5:16cv04772EJD
Dated October 31, 2017.

EXHIBITS A, B, Motion to proceed with first amended
petition.
Order granting motion to proceed with
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TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
House v. bell (2006) 547 U.S. 518, 547	10
Inre Ronald E. (1997) 19 Cal. 3d 315, 325 fn.8	9
People v. Howard (1992) 1 Ca. 4th at pp.1177-78	9
People v. Knollwer (2007) 41 Cal. 4th 139,1540155	8
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STATUTES AND RULES

AEDPA Antiterrorist effective death penalty act of 1996

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 F to the petition and is

reported at 17-17206 ; 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 E to the petition and is

reported at 5;16cv04772 EJD ; 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

[] reported at UNAVAILABLE LOST IN TRANSIT ; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

The opinion of the UNAVAILABLE LOST IN TRANSIT 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 June 26, 2018.

[X] 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 Unavail.. A copy of that decision appears at Appendix C.

[] A timely petition for rehearing was thereafter denied on the following date: None Filed, 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

Petitioner suffered Constitutional Violations of Due Process of Law 5th and 14th amendments to the U.S. Constitution and the violation of a fair trial in violation of his 6th amendments to the U.S. Constitution. Along with a violation of his Right to post conviction relief in Federal Court, when his timely filed federal petition was innitially filed on time pursuant to AEDPA Statute of Limitations.

STATEMENT OF THE CASE

Petitioner waived his Constitutional Rights without being made fully aware of this fact by the Trial Court, when He entered into a BUNNELL, plea following his arrest for the alleged molestation of his granddaughter, for which medical examinations did not corroborate most of the allegations. A total of 13-charges were filed against Petitioner including violation for P.C.'s 288.7, 266 and 288 Subd.(b)(1).

Petitioner entered into a BUNNELL, plea for a single count of violating P.C. 288.7(a), this agreement is found no where in the Court record other than at sentencing, at which time the remaining counts were dismissed. (RT77.)

REASONS FOR GRANTING THE PETITION

Petitioner's Constitutional Rights were violated during Trial when Petitioner had no realistic chance of prevailing and the record was silent as to whether He understood. This is a reversible error because the Trial Court failed to advise him of the full panoply of Constitutional Rights He was waiving. See: Argument I, attsached, also See: Argument II, in which this case presents an issue unresolved by the Court's previous pronouncements as to whether the test of prejudide when a Defendant is not adequately advised of his Constitutional Rights following a BUNNELL, plea is whether the record adequately demonstrates that he would not have waived his Rights if He had been aware He would likely be convicted. Finally, whether the Rights afforded to a State prisoner to file a federal writ of habeas corpus raising Constitutional Violations was ultimately made void by the Courts lack of processing a timely filed petition for relief under AEDPA Statute of Limitations and should the Petitioner be made to bare the wheight of this mistake, by not being allowed to have his Constitutional violations breifed in Federal Court?

police or social worker's reports is unreliable in that it is not based on trial record where "all the evidence", both inculpatory and exculpatory can be assessed. See: (House v. Bell 2006 547 U.S. 518, 547.)

This Court should clarify the appropriate test of prejudice is not the strength of a one sided appraisal of the case but rather whether a defendant would have entered into a BUNNELL, submission if he had been properly advised of his trial rights and the consequences of that decision.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

X Jose Garcia Mejia
Jose Garcia Mejia
Petitioner
Date: September 21, 2018