No. 18-9208

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IN THE SUPREME COURT OF THE UNITED STATES

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ROBERT TRINGHAM,

Petitioner,

- vs -

UNITED STATES OF AMERICA

Respondent

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On Petition for Writ of Certiorari to the
United States Court of Appeals for the Ninth Circuit

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PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Question 1.

Under what circumstances does access to the courts not mean access to justice.

Question 2.

Does FRAP 12.1 grant a Circuit Court of Appeals the authority to delegate its core judicial functions to a non judicial officer.

Question 3.

Does the Court hold that pursuant to Rule 22(b)(2), a notice of appeal can only be construed as an application for a COA, in a habeas context, not in Rule 60(b)(6), where the only issue is whether the district court complied with the Court of Appeals order of remand.

LIST OF PARTIES

All parties appear in the caption of the case on the front cover.

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PETITION FOR WRIT OF CERTIORARI

Robert Tringham respectfully petitions for a Writ of Certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit.

OPINIONS BELOW

The January 11, 2019 opinion of the Court of Appeals denying reconsideration and clarification is unreported and attached as Appendix I. The October 9, 2018 panel opinion of the Court of Appeals denying Mr Tringham a COA, is unreported and attached as Appendix G. The order of the Court of Appeals vacating the district court's Notice of Discrepancies is unreported, dated October 11, 2018, and attached as Appendix C. The district court's Notice of Discrepancies, dated October 21, 2016 is unreported and attached as Appendix B.

JURISDICTION

The Court of Appeals entered its judgment on January 11, 2019, This Court has jurisdiction under 28 USC §1254(1)

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves a federal defendant's rights under the 'privileges and immunities' clause of Article lV, Section 2 of the Constitution, which provides:

> "The citizens of each State shall be entitled to all the privileges and immunities of citizens in several States."

and under Article 1, Section 9 of the Constitution which provides:

> The privilege of habeas corpus shall not be suspended unless when in cases of rebellion or invasion the public safety may require it."

This case also involves a federal defendant's rights under the Fifth Amendment to the Constitution which provides in relevant Part:

> "No person shall be ...deprived of life liberty, or property without due process of law."

This case also involves the application of 28 USC §2253(c) which states in part:

> "Unless a circuit justice or judge issues a certificate of appealablity, an appeal may not be taken to the Court of Appeals ...from the final order in a proceeding under section 2255."

and Federal Rules of Appellate procedure 22(b) which states in part:

> If an applicant files a notice of appeal, the district clerk must send to the court of appeals the certificate and the statement described in Rule 11(a) of §2255.

and Federal Rules of Appellate Procedure 12.1, and 22-1(d)

STATEMENT OF THE CASE

Robert Tringham is a federal prisoner serving a 13 year sentence for wire, mail, and tax fraud, and obstruction of justice. After a three year investigation by the I.R.S., Mr Tringham was indicted on the above charges, and he elected to stand trial.

Petitioner's trial commenced February 12, 2010. It comprised 40+ witnesses, 440 exhibits and 53 pages of jury instructions, however, surprisingly, the Tringham jury took less than 8 minutes from receipt of jury instructions to find him guilty on all charges. Petitioner's investigator, Mr Ted Gunderson, formerly the chief of the Los Angeles F.B.I. was so astonished at the lightning speed the jury was able to reach a verdict, he interviewed some of them outside the court. The jurors interviewed said that they had not needed to deliberate, nor read the jury instructions, because they had all decided his guilt early in trial.

After receipt of independent funding, Mr Gunderson and his staff proceeded to formally interview as many jurors as possible to corroborate the allegations made by the jurors outside the court-house. A protocol was established for interviewing jurors, and eventually on October 2011, the Gunderson-Whitehouse Report, "G-W Report" was published containing the sworn statements of seven jurors that they had decided on Mr Tringham's guilt at the beginning of trial, and sat silently biased aginst him for the duration of trial.

Mr Tringham's direct appeal affirmed his convictions, however, on January 19, 2013, petitioner filed a collateral motion to vacate his convictions pursuant to 28 USC §2255, attaching the G-W Report, and

a report by government inspector Steven Basak, that exonorated him as to count 9 of the indictment (obstruction of justice). He also made claims of numerous constitutional errors that fatally flawed the trial proceedings. The district court denied the §2255, claiming that F.R.Evid.606(b) barred the court from inquiring into juror misconduct during trial, denied other claims for relief, ignored petitioner's request for leave to amend his §2255 prior to adjudication, and ignored or refused to rule on the merits of 11 other claims of constitutional error, including petitioner's actual innocence claim corroborated by Gov. Insp. Basak's 2006 report.

In September 2014, petitioner filed a 38 page motion pursuant to F.R.Civ.P.59(e) requesting the court to reconsider whether 606(b) only bars an inquiry into the verdict and matters relating to jurors deliberations, but on other matters, such as juror misconduct during trial, jurors were competent to testify. The 59(e) also asked the court to consider and rule on the §2255 claims that the court had not yet addressed, including petitioner's request for leave to amend his motion prior to adjudication. The district court denied petitioner's request to file a 13 page oversize brief, stating that it would only read the first 25 pages, and denied reconsideration saying that "court found no reason to modify its original order." On October 28, 2015, petitioner filed an application for a COA to appeal the denial of his 59(e), claiming 12 errors of mixed law and facts, which the district court denied on December 6, 2015, stating that "petitioner fails to make a substantial showing of the denial of a constitutional right." On March 25, 2016, petitioner filed an application to the Ninth Circuit Court of Appeals for a COA, but was denied by a panel stating "appellant has not shown that jurists of reason would find it debatable whether the motion

states a valid claim of the denial of a constitutional right..." which was a remarkable conclusion given the sworn testimony of seven actual trial jurors.

On October 17, 2016, petitioner filed a motion pursuant to F.R.Civ.P. 60(b)(6), claiming a defect in the §2255 proceedings, i.e. that the district court had not ruled on petitioner's request to amend his §2255 before adjudication, nor considered and ruled on the merits of eleven other claims for relief, that the court had failed to address. See Appendix A The district court refused to docket the 60(b)(6) motion, returning it on October 21, 2016, with a "Notice of discrepancies", stating that the court had already refused to consider the unadjudicated claims in its orders denying the 59(e) and COA. Petitioner appealed the Notice of Discrepancies, and on October 11, 2017, the Ninth Circuit Court of Appeals vacated and remanded, ordering the district court "to consider appellant's 60(b)(6) filing." On April 16, 2018, the district court denied petitioner's 60(b)(6), stating that the court had already refused to consider the same unadjudicated claims in its orders denying the 59(e) and COA, in other words repeating the same arguments used in the Notice of Discrepancies for refusing to docket the 60(b)(6).

Petitioner again appealed the district court's order, on the grounds that the court had not given consideration to petitioner's filing within the meaning of the Circuit Court's order of October 11, 2017. On May 10, petitioner received a letter from the clerk of the Ninth Circuit saying that no briefing schedule would be set until the Court determined whether a COA should follow, see Appendix C. On May 19, 2018, Petitioner wrote to circuit court Molly Dwyer, arguing that a COA was not needed to appeal whether the district

court had complied with the Court of Appeals Order of October 11, 2018. Two weeks later, Appellate Commissioner ordered the district court to either grant or deny a certificate of appealability, "and forward to this Court." See Appendix E. However, there was no reference in the Commissioner's order to the grounds of appeal raised by petitioner in his letter to the court of May 19, and no request for the district court to consider whether a COA was needed for this appeal.

Without informing petitioner of the decision of the district court, assuming one was issued, a panel of the Circuit Court denied petitioner a COA, which he had not made, nor had the opportunity to make.

Petitioner requested reconsideration and clarification of the Panel's order, and why he had not been advised of the decision of the district court, by motion dated November 20, 2018. See Appendix D

On January 11, 2019, Court of Appeals denied petitioner's motion in a single word order.

SUMMARY OF REASONS FOR GRANTING PETITION

The Supreme Court has previously stated that the constitutional right to access the courts is "perhaps the one fundamental right." Vick Vo v Hopkins, 118 U.S. 256 (1886); and "It is the function of the court to make findings." United States v John J. Felin & Co., 339 U.S. 624 (1948).

The present case is one where the Court of Appeals for the Ninth Circuit denied petitioner a Certificate of Appealability "COA" that he had never made, before any court had decided whether one

was required, and before giving petitioner the opportunity to make one.

It is a case where the Court of Appeals is unwilling or unable to clarify if it is the policy of the Circuit:

(a) that every appeal from the denial of a rule 60(b)(6) is subject to §2253(c)(1), and requires a COA, notwithstanding that the grounds for appeal concern whether the district court complied with an earlier Appeals Court order of remand. See Appendix D

(b) that questions of law requiring the interpretation of §2253(c)(1) can be decided by a non judicial officer or employees.

(c) that federal courts in the Ninth Circuit are allowed to deny habeas or rule 60(b)(6) motions, without determining the merits of each claim, without making findings of fact, and concusions of law.

(d) that Federal Rules of Appellate Procedure "FRAP" 12.1 can be used to compel a district court to either grant or deny a COA before any court has made a finding whether a COA is required.

Access to a federal court means at least, access to the court's primary function, i.e. the administration of justice, which includes conducting hearings and trials, deciding controversies, and interpreting the laws, regulations, within the U.S. Constitution, under the supervision of an Article lll judge, vested with the power of the United States.

In Wolff v McDonnell, 418 U.S. 539 (1974), this court defined the right of access as "The opportunity to present to the judiciary allegations concerning violations of fundamental rights", and in Bounds v Smith, 430 U.S. 817 (1977), the "opportunity to present"

was held to include the rights of prisoners to file appeals without prepayment of fees, to have counsel appointed for appeals, use of prison libraries and facilities etc.

Here, petitioner argues that the failure or refusal by the Court of Appeals to inform him within 35 days, whether the district court had granted or denied a COA, unreasonably denied petitioner his only 'opportunity to present' a COA to the Court of Appeals pursuant to FRAP 22-1(d) given that the Court of Appeals was:
(a) aware petitioner had previously asked the Court to remand with instructions that the dsitrict court consider each rule 60(b)(6) claim presented,
(b) aware that petitioner's ground for appeal concerned whether the district court had complied with the October 11, 2018 order of remand,
(c) aware that the Court had not informed petitioner of the district court's decision.

In Christopher v Harbury, 536 U.S. 403 (2002), this Court stated that "access to the court is a fundamental tenet of our judicial system. Legitimate claims should receive a full and fair hearing ..." Not all appeals from the denial of a rule 60(b) require a COA, see Harbison v Bell, 556 U.S. 129 (2009). Whether one was required in this case was a mixed question of facts and law, and pursuant to Christopher, petitioner was entitled to a 'fair hearing on this issue before a Circuit Panel, or at least a Circuit judge, see United States v Winkles, 795 F.3d 1134 (9th Cir. 2015). However, instead of a 'fair hearing'. the question was decided by an executive officer using FRAP 12.1, as his authority to order the district court to either grant or deny a COA, without informing

the district court of petitioner's grounds for appeal, thus inhibiting the district court's ability to correctly determine whether a COA was required for the purpose of the appeal.

It has been settled law for more than a century that "a court is without power to delegate their judicial function to an executive officer of the court to any ... To delegate their judicial function to an exective officer of the court ... is to that extent void." Montezuma Canal Company Co. v Smithville Canal Co. 218 U.S. 371 (1910).

The Ninth Circuit Court of Appeals appointment of an Appellate Commissioner is made pursuant to FRAP 27(b) "to rule on and review, make recommendations on a variety of non dispositive motions." Whether petitioner's grounds for appeal required a COA cannot be properly described a 'non dispositive' as the Harbison case clearly shows, when the Supreme Court overruled the Sixth Circuit, and decided a COA was not required.

FRAP 22-1(a) requires that the district court must first consider whether to grant or deny a COA, before the Court of Appeals may grant or deny one. To overcome a stalemate where the district court has failed to consider whether to issue a COA, the Ninth Circuit appears to construe the denial of a Rule 60(b)(6) as an 'indicative ruling', and uses FRAP 12.1 as its authority to make a limited remand, while retaining jurisdiction, see Media v Garcia, 874 F.3d 1118 (9th Cir. 2019). Whether the denial of a 60(b) is a final order or an indicative ruling is an open question in the Ninth Circuit, and it is possible that remands such as in this case are ultra vires. However, one thing is clear, there is no authority that permits FRAP 12.1 to be used as a fishing trip, by an

executive officer, to catch a COA denial, where one is not required. The circumstances in which the Appellate Commissioner, sua sponte, surmised that a COA may be required, are unclear because the Court of Appeals is unwilling to clarify them. However, one thing is sure, the Commissioner's decision was an outlier by any standard, and denied petitioner access to a panel of judicial officers vested with the power to make a lawful determination of the question.

The panel's erroneous denial of a COA, and the extraordinary process by which petitioner's appeal arrived at the panel, raises grave constitutional concerns, because it deprives Mr Tringham of his right to have all his habeas claims heard and determined on the merits.

This Court should review the Ninth Circuit's order of October 9, 2018, as amended on January 11, 2019, and reject their flawed process of using FRAP 12.1 as an alternative to a panel hearing.

REASONS FOR GRANTING PETITION

THE COURT OF APPEALS FOR THE NINTH CIRCUIT ERRED IN DELEGATING ITS CORE FUNCTION TO HOLD FAIR HEARINGS AND MAKE FINDINGS OF FACTS AND LAW TO A NON JUDICIAL EXECUTIVE OFFICER.

FRAP 27(b) provides that an "Appellate Commissioner is an officer appointed by the Court to rule on and to review and make recommendations on a variety of non dispositive matters, such as applications by opposing counsel for compensation under the Criminal Justice Act, and to serve as a special master as directed by the Court."

Whether an appeal is subject to the strictures of 28 USC §2253(c)(1) is a serious matter, a mixture of law and facts, that goes to the

core of such a judicial adjudication. Usually a determination would be made by a panel of Circuit judges, see United States v Washington 653 F.3d 1059 (9th Cir. 2011), "A motions panel of this Court remanded the case for the limited purpose of having the district court consider whether to issue a certificate of Appealability." Moreover, special considerations applied here, that warranted heightened scrutiny, and a deeper review of the nature of the appeal, as petitioner pointed out in his letter to Clerk Molly Dwyer, dated May 19, 2018, this case had earlier been reviewed by a Circuit Panel without the requirement of a COA, and now concerns whether the district court has complied with the earlier panel's order. See Appendix C.

Far from heightened scrutiny, the commissioner reached an uninformed and flawed opinion that such appeal "appears ... to have a habeas context", and ordered the district court to grant or deny a certificate of appealability, without informing the court of petitioner's grounds for appeal. Accordingly, the district court apparently denied a COA, ignorant of petitioner's May 19, letter, however, even if the district court had correctly understood the petitioner's grounds, the wording of the commissioner's order, made clear that the Court of Appeals required only a grant or denial of a COA, not a determination if one was needed. The procedural authority invoked by the commissioner to order a limited remand was FRAP 12.1, a new rule (De. 2009) that provides for "a remand after an indicative ruling by a district court on a motion for relief that is barred by a pending appeal." However, in this case, no motion for relief had been filed, no indicative ruling had been made or contemplated by the district court, only a final order disposing of a Rule 60(b)(6) motion. Here, the sole purpose of a

limited remand using FRAP 12.1 appears to be for the commissioner to avoid having a panel of Appeal Court judges consider petitioner's letter of May 19, 2018, and determine if a COA was required to appeal whether the district court had complied with its earlier order.

The unusual and impermissible delegation of the panel's judicial obligations in this regard, to an executive officer, denied petitioner a fair hearing contrary to Christopher v Harbury, 536 U.S 624 (1948), denied petitioner access to the court, enjoyed as a right by appellants in other circuits and raises concerns whether such delegation suspends the "privileges and immunities clause of Article lV, Section 2, of the Constitution. See e.g. Angel v Bullington, 330 U.S. 183 (1947).

COURT OF APPEALS ERRED BY DENYING PETITIONER A COA, THAT HE HAD NOT MADE, WITHOUT FIRST DECIDING IF ONE WAS REQUIRED, AND WITHOUT GIVING PETITIONER THE OPPORTUNITY TO MAKE ONE.

The Court of Appeals erred by allowing FRAP 12.1 to be used to initiate a limited remand to the district court for the purpose of granting or denying a COA that the Court had not previously considered, was required.

Rule 12.1 states: "Remand after an indicative ruling by the district court on a motion for relief that is barred by a pending appeal." The last motion on the district court docket was dated October 17, 2016, prior to petitioner's successful appeal in October 11, 2017, and 18 months before the district court's denial of the 60(b)(6) on April 16, 2018. It was therefore not a motion for relief barred by a pending appeal.

The district court's order denying petitioner's Rule 60(b)(6) motion was a final order which referred to the action being "case closed." The district court therefore, did not consider its dispositive order as 'indicative', nor was there any legitimate reason for the Court of appeals to construe it as indicative.

In Media v Garcia, 874 F.3d 1118 (9th Cir. 2019), the Ninth Circuit justified a FRAP 12.1 remand as, "The rule provides an efficient means of resolving an issue that the district court is willing to render moot", citing United States v Macdonado-Rios, 790 F.3d 62 (1st Cir. 2015). However, in petitioner's case, a denial of a COA by the district court would not render petitioner's appeal moot, because even if a COA was denied, FRAP 22-1(d) permits an application to be made to the Court of Appeals for one.

The Ninth Circuit also hold in Media that, "We join our Sister Circuits in holding that a FRAP 62.1 motion is not a prerequisit for a limited remand under FRAP 12.1, where the district court has already indicated that it would grant a motion for the requested relief." In this case, the wording of the commissioner's order "to grant or deny ... and specify which issues ..." etc shows that the Court of Appeals had no idea how the district court would Rule, and therefore could not claim the district court had 'already indicated' to it a decision one way or another.

For the aforegoing reasons, the Court of Appeals use of FRAP 12.1 to order a limited remand was arbitrary and capricious, that violated petitioner's right to due process and contravened its own holdings in Media v Garcia.

Court of Appeals erred by not informing petitioner of the decision of the district court whether to grant or deny a COA.

The commissioner's order of June 1, 2018, copied to petitioner directed the district court to reply directly to the Court of Appeals with its decision. This instruction is in contrast to FRAP 12.1, which directs "the movant must promptly notify the circuit court if the district court states ..." thus squarely places the responsibility to notify petitioner upon the Court of Appeals in this instance.

Taft C.I. maintain a system for recording all legal mail received from federal courts. A review of those records showed that no mail addressed to petitioner was received between June 4, 2018 and October 9, 2018. See Appendix H - Declaration of Robert Tringham

Access to the courts for prisoners, means more than a meaningful opportunity to present documents to court, it also includes a meaningful right to receive documents filed in the case by other parties, and to be notified of docket entries originated by the court itself, such as orders, notice of hearings, decisions and other activity that a prisoner would otherwise have no knowledge of. These communications are especially important where a prisoner is expected to comply with a statutory notice period, such as FRAP 22-1(d), which prescribes a period of 35 days from notice of a district court's denial of a COA, to apply to a judge at the Court of Appeals for one.

In this case, the Court of Appeals failed to inform petitioner within 35 days of the district court's decision whether to grant or deny a COA, which lapse continues to this day, and accordingly, denied petitioner a communication he was entitled to receive, and one he required in order to comply with FRAP 22-1(d), denying him access to the court, in square conflict with Wolff v McDonald, 418 U.S. 539 (1974), and Bounds v Smith, 430 U.S. 817 (1977).

COURT OF APPEALS ERRED BY CONSTRUING NOTICE OF APPEAL AS A REQUEST TO THE JUDGES OF THE COURT OF APPEALS FOR A COA

The Ninth Circuit Court of Appeals panel, convened to hear petitioner's appeal from the district court's order denying his Rule 60(b)(6), were aware, or should have been aware of the following:

(a) Petitioner's letter to Circuit Court Clerk Molly Dwyer, dated May 19, 2018, and (b) petitioner's copy letter to commissioner Peter Shaw dated June 4, 2018, in both of which, petitioner notified the Court that his grounds for appeal were whether the district court had complied with the Court of Appeals order of October 11, 2017, "to give consideration to appellant's filing."

(c) The pleadings and filings in the earlier appeal.

(d) That no court had decided whether petitioner's grounds for appeal required a COA.

(e) That the district court had denied a COA.

(f) That petitioner was entitled to be informed of the district court's decision.

(g) That the Court of Appeals had not informed petitioner of the decision of the district court.

(h) That petitioner had 35 days from the date of the district court's denial of a COA to request one from the Court of Appeals.

Confronted with this knowledge, the Court of Appeals panel concluded that the best course of action in the circumstances was to construe petitioner's notice of appeal as a request for a COA, and deny it. This ruling was peverse by any standard, and demonstrates how a petitioner can gain access to the court, yet denied access to justice.

Other circuits have resolved similar situations differently. For example, the Second Circuit, in Lozada v United States, 107 F.3d 104 (2nd Cir. 1999), construed appellant's letter to the court as a 'request to dispense' with a COA. The Court considered, but denied the request, and granted appellant 20 days to make an application for a COA.

COURT OF APPEALS ERRED BY SUMMARILY DENYING PETITIONER'S REQUEST FOR RECONSIDERATION AND CLARIFICATION OF ITS ORDER OF OCTOBER 10.

Petitioner timely filed his motion for reconsideration and clarification on November 20, 2018, requesting the Court's attention to alleged errors of the application of statutory and constitutional law, see Appendix H. Petitioner's main questions were whether the district court had complied with the circuit panel's October 11, 2017 order "to give consideration to his 60(b)(6) filing" within the meaning of the panel's order, or within the dicta of this Court pursuant to Martinez-Villareal v Stewart, 523 U.S. 637 (1998). "The district court should have ruled on each claim when ripe, since respondent was entitled to an adjudication on all claims presented.. to hold otherwise would mean that a dismissal of a first habeas petition for technical procedural reasons, having nothing to do with the claims merits, would bar the prisoner from ever having obtained federal habeas review." See also Marchibroda v United States 368 U.S. 487 (1962), "The statute §2255 requires a district court to grant a prompt hearing when such motion is filed and determine each issue, make findings of fact and conclusions of law." Instead, the district court repeated its refusal to rule on the §2255 claims that it did not wish to address, claiming that its previous refusal to acceprt petition's filings, and refusal to read motions filed

pursuant to Rule 599e) gave sufficient consideration to petitioner's filing.

Notwithstanding the clarity of this Court's rulings in Martinez-Villareal, and Marchibroda, the Ninth Circuit has also made clear in a long line of cases that district courts should rule on each habeas claim presented, see e.g. Gould v Hatcher, 24 Fed Appx 792 (9th Cir 2000), "A court must examine the merits of each claim in the petition before dismissing it." However, despite the preponderence of law on this issue, it was evident from the filings and pleadings of the earlier appellate hearing that the district court's adamancy in refusing to address all of petitioner's §2255 claims, had not changed, and the district court's recent refusal to to comply with the panels October 11, 2017 order indicates that the Court of Appeals is required take appropriate measures to correct those errors.

"It is the duty of an appellate court to excercise supervisory control of the district court in order to insure proper judicial administration." Schlagenhauf v Holder, 379 U.S. 249 (1957). Appendix A sets forth in summary detail, the §2255 claims that have not yet been addressed by a federal court. For example, item 3 in Section 1, is a claim of implied jury bias, evidenced by the sworn statement of an alternate juror, the extreme brevity of jury deliberations (8 minutes), and the testimony of investigators Ted Gunderson and LaNelle Whitehouse. Item 1 in Section 1, is a claim of actual factual innocence to count 9 of the indictment, that is corroborated by Gov. Insp. Steven Basak, in a written report dated February 2006. The witnesses involved in both claims have been waiting to give their testimony to the court, but have been unable to do so because the district court refuses to address the issues.

The Ninth Circuit Court of Appeals have been aware since March 2016 that these claims have never been addressed by a federal court, despite petitioner presenting them muliple times to both the district and the Court of Appeals. It is inexplicable to petitioner why the Circuit panel would deny him a COA when it is clear from the record that petitioner's habeas claims remained unadjudicated, moreover, the panel's reliance on an executive officer to reach, on behalf of the court, the correct conclusions of law relating to whether a COA is required for petitioner's appeal, is without precedent in any of the Curcuit Courts. Petitioner has both a constitutional and equitable right to demand answers to these questions, and to why the Court of Appeals effectively cancelled his habeas claims with its October 9, 2018 order.

Article 1, Section 9 of the U.S. Constitution provides that "The privilege of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion, the public safety may require it." This Court has often said that "The writ of habeas corpus indisputably holds an honored position in our jurisprudence" and remains "A bulwark against convictions that violate fundamental fairness." Engle v Isaac, 456 U.S. 107 126 (1982).

Petitioner's motion for Reconsideration and Clarification, dated November 20, 2018, Appendix H, sought an explanation for the procedural anomolies that plagued his appeal, and why he should be deprived of any ruling on the nerits of his outstanding claims. The refusal of the Court of Appeals to give petitioner any explanation of its procedures and polocies, or restore his habeas rights lost through maladministration of justice, has essentially

suspended the great writ of habeas corpus in this case.

CONCLUSION

The foregoing reasons warrant this Court granting certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit.

Respectfully submitted

Dated: April 7, 2019

Robert Tringham
Petitioner pro se