

19-5001 ORIGINAL
No. 9th Cir. No 18-15456
D.C. No. 2:14-cv-01259-JAO-VCF

IN THE
SUPREME COURT OF THE UNITED STATES

FILED
SEP 04 2018
OFFICE OF THE CLERK
SUPREME COURT, U.S.

Melvin D. Dulcero — PETITIONER
(Your Name)

VS.

D.W. Neuen, et.al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. Court of Appeals, Ninth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Melvin D. Dulcero
(Your Name)

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(Address)

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

No Tel.
(Phone Number)

QUESTION(S) PRESENTED

- 1) That without the issuance of a GVR, Petitioner would be deprived of the right to have an Appellate court to consider the merits of the claims on preclusion.

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:

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	<u>United States Court of Appeals</u> <u>For the 9th Cir. Ct.</u>
APPENDIX B	<u>U.S. Dist. Ct., Denial For (coA)</u>
APPENDIX C	<u>U.S. Dist. Ct., Denial of Habeas</u> <u>corpus</u>
APPENDIX D	
APPENDIX E	
APPENDIX F	

TABLE OF AUTHORITIES CITED

	PAGE NUMBER
CASES	
<u>Laurence vs. Charter,</u> 516 U.S. 163 at 186 (1996) - - - - -	p.6
STATUTES AND RULES	
28 USC § 1254(1) - - - - -	p.2
28 USC § 1257(a) - - - - -	p.2
28 USC § 2353(c)(2) - - - - -	p.5
OTHER	
<u>Supreme Court Rules</u>	
Sup.Ct.R. 13(1) - - - - -	p.2
Sup.Ct.R. 2a - - - - -	p.8

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 A 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☒ is unpublished.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 B 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☒ is unpublished.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
June 25, 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). This Petition is timely filed in accordance to Supreme Court Rule 13(1); F Filed on or before September 25, 2018.

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

The constitutional and statutory provisions involved herein concern the application of the United States codes, the mis-application of law, and interpretation of the laws governing the issuance of a Certificate of Appealability "COA"

STATEMENT OF THE CASE

This case involves the issuance of a Certificate of Appealability (COA), as Petitioner properly applied for a "COA" in order to pursue appellate review but was denied such, by such denial it is prohibiting Petitioner from having his original writ of Habeas Corpus adjudicated on Appeal.

REASONS FOR GRANTING THE PETITION

A petition should be granted as the grounds stated within the petition facially allege the denial of a constitutional right, jurists of reason would debate the issue(s) and a certificate of appealability would be proper on the issue(s) because the petitioner has made substantial showing of the denial of a constitutional right within the meaning of 28 U.S.C. §. sec. 2353 (c)(2). Without a "GVR" petitioner will be precluded from fully litigating all his claim(s), and properly considered on appeal. This case presents a circumstance in which "The GVR order can improve the fairness and accuracy of judicial outcome which at the same time

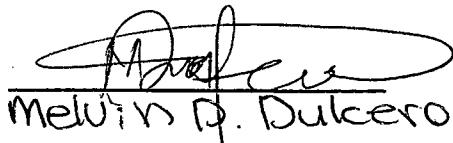
REASONS FOR GRANTING THE PETITION

Serving as a cautious and deferential alternative to summary reversal in cases whose precedential significance does not merit review. Laurence v. Charter, 516 U.S. 163 at 186 (1996).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,


Melvin P. Dulcero
Date: Aug. 31 2018