

No.

IN THE
SUPREME COURT OF THE UNITED STATES

YURIE YAMANO,
Petitioner,

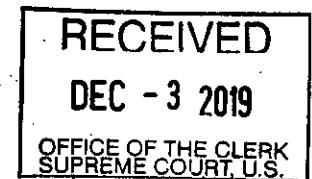
v.

STATE OF HAWAII,
DR. KATIE HUANG,
DR. KEIICHI KOBAYASHI
Respondents.

On Petition for Writ of Certiorari to the Ninth
Circuit en banc Court of Appeals
No. 18-16359,
U.S. District Civ. No. 18-00078 SOM-RLP

PETITION FOR REHEARING

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PETITION FOR REHEARING

The Petitioner, herein, respectfully moves this Court for an order (1) vacating its denial of the petition for writ of certiorari, entered on November 4, 2019, and (2) granting the petition. As grounds for this motion, petitioner states the following: 1. The due process clause of the Fifth and Fourteenth Amendment requires everyone the chance to be heard in which the petitioner in this case did not have any opportunity to be heard which represents a departure from its constitutional guarantee of the right to be heard. This is the type of decision is subject to appellate review. In its decision, refusing to review 9th Circuit Court of Appeals decision as one committed to courts erroneous decision is subject to review. But the Court failed to acknowledge that the presumption of unreviewability does not apply when there is law to apply. *Citizens to Preserve Overton Park, Inc. v. Volpe*, 401 U.S. 402, 410 (1971); *National Wildlife Federation v. EPA*, 980 F.2d 765, 773 (D.C. Cir. 1992). Several Courts have recognized repeatedly that the Supreme Court's holding in *Chaney v. Heckler*, 470 U.S. 821 (1985), does not bar judicial review when a court rule and procedure provides the Court with law to apply. See, e.g., *Socop-Gonzalez v. INS*, 208 F.3d 838, 844 (9th Cir. 2000) (citing decisions from 1st, 3rd and 6th Circuit Courts of Appeals). In this case, the petitioner provided the Court with laws against which to scrutinize the 9th Circuit Determination.

The 9th Circuit en banc appellate court, below, did not address any of the arguments presented for review in its court. But, in reaching its decision it afforded more protection under the 11th Amendment to the defendants. This Court was not construing the arguments presented, and it was not faced with a decision by a court decision "not to enforce." Rather, this Court's holding applied a 9th circuit decision denying a petition for reconsideration. Those facts are distinct from those presented in this case. This case presents a set of facts that, while is of very unique in nature, is unusually sad that justice in this country cannot be attained even when you lose an organ without due process of law which effects your quality of life.

Here, the 9th Circuit en banc court did not simply refuse to initiate proceedings, but to withdraw in deciding the case en banc. Here, there were no "formal or informal investigation." It, then, the 9th Circuit en banc court made some factual assumptions that was not the issues and created their own conclusion inconsistent and contrary to laws.

The 9th Circuit en banc court recited a skeletal legal analysis of the supposed applicable law. More importantly, not only the law conflicted that of the petitioner's argument using U.S. Supreme Court precedents that applies to the state courts illicit decisions under the U.S. Constitution but, also, the law that applies to the specific factual scenario presented by the petitioner in this case. In 9th Circuit court analysis, the "Decision" fell short of determining whether cause action of 11th Amendment

protection can be waived or surrendered by illegal antics of the state of Hawai'i's Supreme Court.

There are three main exceptions to the sovereign immunity of a state. First, The Eleventh Amendment does not stop a federal court from issuing an injunction against a state official who is violating federal law. Although the state official may be abiding by state law, he is not permitted to violate federal law, and a federal court can order him to stop the action with an injunction. [*Ex Parte Young*, 209 U.S. 123 (1908)] Money damages are possible against the state officer, as long as the damages are attributable to the officer himself, and are not paid from the state treasury. *Scheuer v. Rhodes*, 416 U.S. 232 (1974).

Where, as here, the 9th Circuit court expanded the States protection, disregarding the case precedence altogether. The clear and basic fact is, petitioner internal organ was removes without ANY INFORMED CONSENT, and without any due process and when brought into court, was met with huge resistance. Petitioner cited laws and State statutes, court rules and procedures that forbids the action taken against petitioner. This is the court of last resort, anything short of not granting a rehearing will go against every principle constitutional provision were guaranteed to protect, statutory, case precedence, laws of the United States, it will also undermine this courts ability to really serve justice.

CONCLUSION

For the reasons as stated above, the petitioner prays that this court affords justice for the injustices that burdens her daily life of the things done to her that deprived her of life, in the pursuit of happiness. For the reasons set forth above, as well as those contained in the petition for writ of certiorari, Petitioner prays that this Court grant rehearing of the order of denial, vacate that order, grant the petition, and review the judgment and opinion from below.

Respectfully submitted,

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CERTIFICATE OF COUNSEL

As counsel for the petition, I hereby certify that this petition for rehearing is presented in good faith and not for delay and is restricted to the grounds specified in Rule 44.2.


Yurie Yamano Petitioner pro se