

19-6304

## ORIGINAL

## IN THE

SUPREME COURT OF THE UNITED STATES

FILED  
OCT 16 2019  
OFFICE OF THE CLERK  
SUPREME COURT, U.S.

Martin Nava Lara — PETITIONER  
(Your Name)

vs.

The State of Texas — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Court of Criminal Appeals of Texas  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

**PETITION FOR WRIT OF CERTIORARI**

Martin Nava Lara # 1848432

(Your Name)

12071 F.M. 3522

(Address)

Abilene, Texas 79601

(City, State, Zip Code)

N/A

(Phone Number)

## **QUESTION(S) PRESENTED**

1. Whether State law supercedes the Supreme Law of the Land in regards to the rights, of a foreign national, established by the treaties between two countries?
2. Whether a foreign national has the same rights allow by the U.S. Constitution, as citizens do, to prevent the self-incriminating act of confessing under falsely applied Miranda rights?

## 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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### 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 \_\_\_\_\_ 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 is unpublished.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 \_\_\_\_\_ to the petition and is

reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

**[X] 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 \_\_\_\_\_; 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 is unpublished.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 is unpublished.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 \_\_\_\_\_.

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 July 31, 2019. A copy of that decision appears at Appendix A.

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**

### **6th Amendment**

- In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be conforonted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

### **14th Amendment Section 1**

- Alll persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.. No State shall make or enforce any law which shall abridge the privileges of immunitiess of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

### **Texas Penal Code 21.02 Section (b)(1)(2)**

- the minimum term of imprisonment for an offense under this section is increased to 25 years if:

1. the victim is a child younger than 14 years of age, regardless of whether the actor knows the age of the victim at the time of the offense.

## **STATEMENT OF THE CASE**

Petitioner was tried by a jury and found guilty of the offense of Continuous Sexual Abuse of a Child under 14 on February 14, 2019. The trial court sentenced him to 25 years in the Texas Department of Criminal Justice Institutional Division. Petitioner is currently not eligible for parole due to the victim in this case was under 14 at the time of the offense. Petitioner timely filed an appeal with the 3rd Court of Appeals. His conviction was affirmed on April 24, 2014. Petitioner did not file a petition for discretionary review due to the lack of understanding of law and procedures. Petitioner filed a writ of Habeas Corpus under Article 11.07 with the 21st Judicial District Court of Bastrop County on June 12, 2019. Petitioner's writ for Habeas Corpus was later denied without written order by the Texas Court of Criminal Appeals. Petitioner received postcard denial on July 31, 2019.

## REASONS FOR GRANTING THE PETITION

- A. The State Court is neglecting the fundamental rights of foreign nationals by dismissing Federal statutes and rules designed to facilitate proper treatment of persons of foreign countries through established treaties.

This case is of National Importance as the State of Texas has taken the Supreme Law of the Land governed by treaties and agreements and created its own laws that negate said Supreme laws. The U.S. Supreme Court Held that a Defendant can raise an argument under Article 36 of the Vienna Convention as part of a broader challenge to the voluntariness of his statements to police. Sanchez-Llamas v. Oregon 126 S.Ct 2669, 2682 (2006). Such a challenge was meritorious and that there is a reasonable probability that the verdict would have been different absent the excludable statements. Kimmelman v. Morrison 477 U.S. 365, 375 (1986)

Petitioner in this case was denied his rights as a foreign national when the arresting officers withheld his right to contact his Consulate. Having had the presence of his Consulate, Petitioner would have had a clear understanding as to the rights he was waiving as he did not understand the Miranda rights card presented to him by the police. The Consulate officials would have explained to him in a language he was familiar with that he had the right to have counsel present during questioning. He would have also been aware of his right to remain silent. As it stands, he was not aware of the consequences for signing the Miranda warning. During trial, trial counsel should have suppressed all statements made but failed to act accordingly. Petitioner's rights were violated due to his lack of assistance from counsel which is guaranteed un the U.S. Constitution regardless of citizenship status.

Granting this petition serves to strengthen the foundations that act as an example and is defined as a staple to the democratic world. It is our responsibility to uphold the vocabulary within the text and hold its meaning a true and correct.

## **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Martin Nava Lara.

Date: October 8th, 2019