No. 19-8303

IN THE

Supreme Court of the United States

WADRESS HUBERT METOYER, JR.,

Petitioner,

V.

DELYNN FUDGE, ET AL.,

Respondent.

On Petition For A Writ Of Certiorari
To The United States Court of Appeals
for the Tenth Circuit

PETITION FOR A WRIT OF CERTIORARI

WADRESS H. METOYER, JR.
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QUESTIONS PRESENTED

1. Did the 1997 Oklahoma Legislature mandate in its statutory language, phrases provisions, design, purpose and intent in House Bill 1213 effective date July 1, 1997-98, to the Oklahoma Pardon and Parole Board (PPB) pursuant to the provisions and procedures mandated in Oklahoma's Truth-In-Sentencing Act/Laws in Title 57 O.S. Supp. 1997-2018, § 332.7 and its subsections (A) (1) (B) (1) (2) 1997 version and subsections (A) (1) (F) (G) and (O) 2018 version in House Bill 2286, effective date November 1, in its context as a whole for offenders crimes committed prior to July 1, 1998, the replacement of its discretionary parole consideration review to a mandatory realistic opportunity to be release on a parole through an indeterminate sentencing range determination of what sentence pursuant to Section 6, 598, 599, 600 and 601, Chapter 133 O.S. L. (1997) he/she would have received pursuant to the applicable matrix. *See*, Title 57, O.S. Supp. 2018, § 332.7 (A) (1) (B) (F) and (O) effective date November 1, 2018 in its statutory provisions, language, design purpose, intent and context as a whole pursuant to the Oklahoma applicable matrix-indeterminate sentencing and release through a supervised parole and/or a discharge of sentence by accumulated earned credits established by Title 57 O.S. § 138?

2. Did the statutory language, design, purpose and intent in House Bill 1213 effective date July 1, 1997 and House Bill 2286 effective date July 1, 1997 and House Bill 2286 effective date November 1, 2018 for an offender's crimes committed prior to July 1, 1998 create and mandate a truth-in-sentencing act/laws providing a meaningful and realistic opportunity to release by a determination of what sentence they would have received pursuant to the applicable matrix pursuant to Section 6, 598, 599, 600 and 601, Chapter 133 O.S.L. (1997)-indeterminate sentencing range-sentencing guidelines providing a control sentencing and release by the PPB upon recommendation to the governor of the state of Oklahoma pursuant to Oklahoma's contract agreement and requirements set-forth in 42 U.S.C.A. § 1370 (1) (B) (2) (3) and § 13704 (a) (i) (A) (C) (i)?

3. Did the Oklahoma truth-in-sentencing act/laws pursuant to title 57, O.S. Supp. 1998-2018 § 332.7 (A) (1) (F) (G) and (O) effective date November 1, 2018 create a constitutional protected liberty interest right in its statutory provisions and language, as presented in its statutory design, purpose and intent to a mandatory procedure to be implemented, applied and administered to offenders crimes committed prior to July 1, 1998 upon their one-third (1/3) parole eligibility date, in providing a mandatory indeterminate sentencing range system for the PPB to recommend a sentencing and release by a supervised control parole release and/or discharge by accumulated earned credits (57 O.S. § 138), if the maximum of

the indeterminate sentencing range has been discharged? See Section 6, 598, 599, 600 and 601 Chapter 133 O.S.L. (1997) and § 332.7 (O).

4. Did the Tenth Circuit Court of Appeals and the United States District Court for the Western District of Oklahoma orders entered on January 6, 2020 on rehearing by the 10th Cir. And on October 10, 2019 by the district court failed to acknowledge, discuss, analyze and consider relevant facts presented under Oklahoma Constitution Article VI, § II, and V, § 1 it states: The right to make and pass laws exists solely within the legislature and the execute not the judiciary. Oklahoma's legislature re-enactment and revived by effective date the statutory provisions of § 332.7 (A) (1) (C) (F) and (O) creating Plaintiff's statutory established liberty interest right thereto protected by due process of law 14th Amendment to a meaningful opportunity to a realistic opportunity to a sentencing and release pursuant to Oklahoma's truth-in-sentencing act/laws mandating a procedure to "what sentence an offender's crime committed prior to July 1, 1998 would have received pursuant to the applicable matrix-indeterminate sentencing range system "pursuant to statutory provisions of Petitioner's consideration and reconsideration procedures § 332.7 (F)?

5. Did the United States District Court for the Western District of Oklahoma and the United States Court of Appeals for the Tenth Circuit orders entered failed to examine the context of § 332.7 (A) (1) (G) (F) and (O) and H.B. 1213, H.B. 2286, § 332.7 (A) (1) (B) (2) as a whole in its statutory language provisions, purpose, design and intent of Oklahoma's legislature which conflicts with this court's decision and findings in Keven Kasten, Petitioner v. Saint Gobain performance Plastics Corporation, Respondent, 131 S. Ct. 1325 (No. 09-834) that: "Interpretation of a statutory phrase depends upon reading the whole statutory text, consider the purpose and context of the statute, and consulting any present or authorize that inform the analysis. See also 10th Circuit Court of Appeals decision in 472 B.R. United States bankruptcy No. 10-12802, decided May 29, 2012, which held: "when interpreting statutory language at issue, as well as to language and design of statute as whole."?

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PETITION FOR WRIT OF CERTIORARI

Petitioner Wadress H. Metoyer, Jr. prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

The opinion of the United States court of appeals appears at Appendix A to the petition and is unpublished. The opinion of the United States district court appears at Appendix B to the petition and is unpublished.

JURISDICTION

The date on which the United States Court of Appeals decided my case was December 6, 2019. A timely petition for rehearing was denied by the United States Court of Appeals on the following date: January 6, 2020, and copy of the order denying rehearing appears at Appendix A.

CONSTITUTIONAL AND STATUTORY PROVISION INVOLVED

Because of the constitutional protection of the Due Process Clause of the 14th Amendment and the established statutory liberty interest rights involved and created by 42 U.S.C.A. § 13701 (1) (B) (2) (3) and § 13704 (a) (1) (A) (c) (i), the State of Oklahoma repealed its prior discretionary parole laws and system for offenders crimes committed prior to July 1, 1998 and created and mandated an "Indeterminate sentencing system" for a control release on parole within its statutory range of "what sentence he/she would have received pursuant to the applicable matrix, as mandated by Oklahoma House Bill 1213 mandating Oklahoma's truth-in-sentencing act/laws under the statutory provisions, statutory

language, design, purpose and intent in title 57, O.S. Supp. 1997, § 332.7 (A) (1) (B) (1) (2), for offenders crimes committed prior to July 1, 1998 by which the Oklahoma Pardon and Parole Board controls their parole release through recommendation to the governor of Oklahoma that "they have become 'eligible' within the statutory range of "what sentence they would have received" for a "part 1 violent crime," as defined by § 13701 (B) (2) and (3) pursuant to Oklahoma's agreement to implement truth-in-sentencing laws, provision, and procedures mandating a "Indeterminate sentencing System" pursuant to Section 6, 598, 599, 600 and 601, chapter 133 O.S.L. (1997) revived, re-enacted and mandated pursuant to Title 57, O.S. Supp. 1997-2018, § 332.7 (A) (1) (F) (G) and (O) effective date November 1, 2018. To be reported to the federal Bureau of Investigation for purposes of the uniform crime reports as meeting their requirements of the United States government "eligibility" that the State of Oklahoma has implemented truth-in-sentencing laws for their participation to receive grant awards pursuant to § 13701 (a) governing Oklahoma's Pardon and Parole Board to apply and administer "a control parole release within the statutory range pursuant to Oklahoma truth-in-sentencing applicable matrix-Indeterminate sentencing system for offender's crimes committed prior to July 1, 1998, to be recommended to the governor upon their one-third (1/) statutory eligibility date and/or their eighty-five (85%) statutory eligibility date of "what sentence they would have received pursuant to the applicable matrix" in meeting Oklahoma's mandatory requirements pursuant to the statutory provisions, language, design, purpose and intent in Oklahoma's truth-in-sentencing laws,

provisions and procedures mandated in Title 57, O.S. Supp. 1998-2018, § 332.7 (A) (1) (B) (1) (2) 1997 version and § 332.7 (A) (1) (F) (G) and (O) 2018 version effective date November 1, 2018.

U.S.C.A. 14th Amendment-Due Process Clause-established liberty interest right-14th Amend.

Federal statutes and Provisions- 42 U.S.C.A. Sections 13701 et seq., § 13701 (1) (B) (2) (3), § 13704 (a) (1) (A) (C) (i) state statutes and provisions Oklahoma House Bill 1213: Title 57, O.S. Supp. 1997, § 332.7 (A) (1) (B) (1) (2); Title 57 O.S. Supp. 1997-2018, § 332.7 (A) (1) (G) (F) and (O); Chapter 133 O.S.L. (1997), Section 6, 598, 599, 600 and 601, truth-in-sentencing applicable matrix-indeterminate sentencing system.

STATEMENT OF THE CASE

Petitioner filed his civil rights complaint pursuant to 42 U.S.C. § 1983 and a motion to proceed in forma pauperis on May 6, 2019 in the United States District Court for the Western District of Oklahoma, case No. 5:19-CV-00406-SLP. The crux of Petitioner's complaint was "the 1997 Oklahoma truth-in-sentencing act, which applied to offender's who committed crimes prior to July 1, 1998, requires the pardon and parole board to apply procedures to determine what sentence a person eligible for consideration and/or reconsideration for parole would have received pursuant to the applicable matrices" that are part of the act's statutory provision,, language context, purpose and design of the original act (House Bill 1213/57, O.S. Supp. 1997, § 332.7) mandated in its clear language of the statutes subsections (A)

(1) (B) (1) (2) 1997 version and § 332.7 (A) (1) (F) (G) and (O) 2018 version presented facts relevant to petitioner's claims for review and relief due to his established liberty interest protected by the 14th Amendment Due Process of Law. On May 7, 2019 United States District Court Judge Scott L. Palk and U.S. Magistrate Bernard M. Jones were assigned to the case. (D.C. No. 5:19-CV-0046-SLP (W.D. Okla.).

On May 21, 2019 forma pauperis was denied upon request of Magistrate's Report and Recommendation entered on May 7, 2019 and on May 17, 2019 Petitioner paid in full $400.00 filing fees from his institutional savings account. On May 31, 2019 Magistrate Jones entered Report and Recommendation to dismiss complaint on screening and on June 20, 2019 Petitioner filed his timely objection and also filed a Motion for Discovery and to Produce Documents. On July 29, 2019 U.S. district Court Judge Palk entered order dismissing Petitioner's Complaint. Petitioner filed his notice of intent to appeal in forma pauperis to the United States Court of Appeals for the Tenth Circuit, Case No. 19-6124. On order entered by the Tenth Circuit on October 28, 2019, the 10th Cir. Directed partial payments from Petitioner's prison account monthly until filing fees in the amount of $505.00 are paid to the clerk of the United States District Court for the Western District of Oklahoma. On or about October 24, 2019 Petitioner filed his opening brief to the Tenth Circuit Court of Appeals, Case No. 19-6124, *Metoyer v. Fudge,* et al. (No. 5:19-CV-00406-SLP) (W.D. Okla.). On December 6, 2020 the United States Court of Appeals for the Tenth Circuit enter its order and judgment affirming the district court's judgment. Both the United States District Court and the Tenth Circuit

Court of Appeals orders, discussions and their conclusion fail to address, examine and analysis Petitioner's complaint under this Court's decision in *Kevin Kasten, Petitioner, v. Saint Gobain Performance Plastics Corporation,* 131 S. Ct. 1325 (NO. 09-834) that: "Interpretation of a statutory phrase depends upon reading the whole statutory text, considering the purpose and context of the statute, and consulting any present or authorizes that inform the analysis."

The Tenth Circuit Court of Appeals failed to consider Petitioner's complaint upon its decision in United States Bankruptcy Appellate Panel Tenth Circuit Pap No. 11-023-Bankruptcy No. 10-12802, decided May 29, 2012, where it held: "When interpreting statutory language, court must look to particular statutory language at issue, as well as to language and design of statute as whole." On or about December 20, 2019, Petitioner filed his Petition for Rehearing *en banc* because the panel decision of the 10th Cir. Entered on December 6, 2019 conflicted with this Court's decision in *Keven Kasten, Petitioner v. Saint Gobain Performance Plastics Corporation,* 123 S. Ct. 1325 (No. 09-834) and its own decision in 472 B.R. United States Bankruptcy Appellate Panel Tenth Circuit Bap, No. 11-023 –Bankruptcy No. 10-12802, decided May 29, 2012. Petitioner's petition for rehearing was denied on January 6, 2020, Case No. 19-6124. Petitioner has filed his timely petition for a writ of certiorari within 90 days from the date of January 6, 2020, the denial of his petition for rehearing giving this Court, the Supreme Court of the United States jurisdiction to grant review by means of a writ of certiorari.

REASONS FOR GRANTING THE PETITION

This court should grant certiorari because the United States Court of Appeals for the Tenth Circuit has decided in Case No. 19-6124, *Metoyer v. Fudge,* et al. Dist/Ag docket: 5:19-CV-00406-SLP an important federal question in a way that conflicts with relevant decisions of this Court *in Kevin Kasten v. Sanit Gobain Performance Plastics Corporation,* 131 S. Ct. 1325 (No. 09-834) and *Dolan v. Postal Service,* 126 S. Ct. 1252 (2006), where this court held: "Interpretation of a statutory phrase depends upon reading the whole statutory text, considering the purpose and content of the statute, and consulting any present or authorizes that inform the analysis. *See also* this Court's decisions in *Hardt v. Reliance Standard Life Inc. Co.,* 560 U.S. 242 (May 24, 2010), 130 S. Ct. 2149 ("In cases of statutory construction, the Supreme Court begins by analyzing the statutory language, assuming that the ordinary meaning of that language accurately expresses the Legislature purpose"). *Gross v. FBL Financial Services, Inc.,* 129 S. Ct. 2343, 2350 (2009); *Carcieri v. Salazar,* 129 S. Ct. 1058-1064 (2009); and *Jimenez v. Quarterman,* 129 S. Ct. 681, 684-685 (2009); This Court has held: Courts must determine the Legislature intent, considering the whole statute, to determine whether a procedural requirement of a statute is directory or mandatory and, The Supreme Court first step in interpreting statute is to determine whether language at issue has plain and unambiguous meaning with regard to particular dispute in case. *Food Marketing Institute v. Argus Leader Media,* 139 S. Ct. 2356: (Where a court's careful examination of the ordinary meaning and structure of a statute yields a clear answer, judges must stop). *See Artis v. District of Columbia,* 138 S. Ct. 594 (Courts must give effect to the

clear meaning of statutes as written, giving each word its ordinary, contemporary, common meaning).

Petitioner's constitutional and statutory provisions involved in the applicable subsection (G) as mandated for offenders' crimes committed prior to July 1, 1998 by the Oklahoma Truth-in-Sentencing Act/laws (Title 57, O.S. Supp. 2018, § 332.7 (G) which mandates statutory phrases within the whole statutory text and statutory provisions, such as: "The Pardon and Parole Board 'shall' promulgate rules for the implementation of subsections A, B and C of this section." The rules "shall" include, but not be limited to, procedures for reconsideration of persons denied parole under this section and procedure for determining "what sentence a person eligible for parole consideration pursuant to subsection A of this section would have received under the applicable matrix." *See also* statutory language and provisions in subsection O of the Act/laws mandating section 6, 598, 599, 600 and 601, Chapter 133 O.S.L. (1997). An indeterminate sentencing range for a control sentencing and release for persons crimes committed prior to July 1, 1998 effective date November 1, 2018, as adopted for "purposes" pursuant to State's requirements under the provision of 42 U.S.C.A. § 13701 (1) (B) (2) (3) and § 13704 (a) (1) (A) (C) (i). The "Laws" of a state are the Rules and enactments promulgated by legislative authority. In considering statutory language and statutory purpose, and the intent of statute, reading the whole statutory text and considering the purpose and context of the statute's enactment: *See* subsection F of § 332.7(F) which reads as a whole: "Any person in the custody of the Department of Corrections for a crime committed

prior to July 1, 1998 who has been considered for parole that has been abolished by the legislature "shall" not be considered for parole except in accordance with this section." In reading, the context and purpose of the Act in subsection F clearly and cleanly abolishes its discretionary parole process of the past for person crimes committed prior to July 1, 1998 and have mandated two (2) mandatory statutory procedures: (1) reconsideration of person denied parole, and (2) procedure for determining what sentence a person eligible for parole consideration pursuant to subsection A of this section (one-third eligibility) would have received under the applicable matrix. These mandatory procedures mandated by the Oklahoma Legislature within the statutory language of § 332.7 (G) creating a protected liberty interest right and has established an important federal question pursuant to interpretation of a statutory phrases, as required by due process of law on a "liberty interest right" claim the court must look to particular statutory language at issue, as well as to language and design of statute as whole.

The United States Court of Appeals for the Tenth Circuit decision denying Petitioner's petition for rehearing en banc is in conflict with its decision and other United States Court of Appeals decision on the same important matter of interpretation of statutory phrases, and provisions and the fact that the 10th Circuit Court of Appeals has so far departed from the accepted and usual course of judicial proceedings settled by this Court. *See* Tenth Circuit's decision in *472 B.R. United States Bankruptcy Appellate Panel Tenth Circuit Bap* No. 11-023—Bankruptcy No. 12802, decided May 29, 2012, whereas on the same I important matter of

interpretation of statutory phrase, language, design, context and purpose as a whole, the 10th Circuit conflicts with its own decision in Case No. 19-6124, *Metoyer v. Fudge,* et al. *See also, Natural Resources Defense Council, Inc. V. James R. Perry,* 940 F. 3d 072 (9th Cir.) "Plainness or ambiguity of statutory language is determined by reference to language itself, specific context in which that language is used, and broader context of statute as whole." Congress use of term "shall" in statutory language, phrase, design, context and purpose indicates intent to impose discretion less obligations. *Jomaa v. United States, 940 F. 3d 291* (6th Cir.); *Juzmas v. Nassau County,* 417 F. Supp. 3d 178 "the use of the word 'shall' in a statute usually imposes a mandatory duty." *See Williams v. Shelby County Board of Education,* 413 F. Supp. 3d 734 "In general, use of the word "shall" in a statute indicates that the statutory provision is mandatory, not discretionary, but there are exceptions to this rule", which are not present in Case No. 19-6124. For purpose of statutory interpretation, the "shall" is ordinary instructive of a command. *See In re Brownlee,* 606 B. R. 107.

Because the United States Court of Appeals for the Tenth Circuit and the United States District Court for the Western District of Oklahoma has interpreted "the statutory language, phrases, text, purpose, design, context, provisions and procedures of Oklahoma's Truth-in-Sentencing Act/laws (Title 57 O.S. Supp. 2018, § 332.7 (A) (1) (F) (G) and (O) for persons/offenders crimes committed prior to July 1, 1998 in part and not as a whole, causing conflicts with decisions of this Court and decisions of other United States Courts of Appeals on the important matter of deciding an important federal question of interpretation of statutory phrases,

language, text, purpose, design, context of provisions and procedures in part and not as a whole, in an examination into the ordinary meaning the clear meaning and structure written in the statute giving it a "common" meaning for persons crimes committed prior to July 1, 1998, as legislative intent for Oklahoma's Truth-in-Sentencing Act/laws in its replacement of Oklahoma's abolished "Forgotten Man's Act/laws (Title 57 O.S. 1971-1997, § 332.7) a discretionary parole process system prior to July 1, 1998 enactment of Oklahoma's Truth-in-Sentencing Act/laws.

The Tenth Circuit's failure to analysis and examine, the statutory construction and structure mandated in 57 O.S. Supp. 2018, § 332.7 (A) (1) (F) (G) and (O), the statutory language, phrases, design and purpose in whole and not in part as exercised in its decision in *Seegars v. Ward,* 124 F. App'x 637, 638 (10th Cir. 2005) where that court concluded in its examination and analysis that "Oklahoma Truth-in-Sentencing Act originally included matrices of sentencing ranges for various crimes, that the legislature soon repealed the sentencing matrices, [but] the matrices are still used in calculating parole eligibility dates." *Id.* at *2 (citing Okla. Stat. tit 57 § 332.7 (A) (3) (an examination and analysis in part and not as a whole of statutory language, phrases, text, design, context, purpose, provisions, procedures for persons crimes committed prior to July 1, 1998, § 332.7 (A) (1) (F) (G) and (O). The 10th Cir. Concluded that, despite its confusing language, § 332.7 (G) focuses exclusively on the calculation of parole eligibility date conflicts with its decision in *472 B. R. United States Bankruptcy Appellate Pane,* supra. And this Court's decisions in *Kevin Kasten v. Saint Gobain Performance Plastics Corporation,*

supra.; *Gross v. FBL Financial Services, Inc.* supra; *Carcieri v. Salazar,* supra.' *Jimenez v. Quarterman,* supra; *Food Marketing Institute v. Aras Leader Media,* supra; *Aris v. District of Columbia,* supra.: The statutory language of Supp. 2018, § 332.7 (G) is clear in its context, purpose and design when it mandated "a procedure for reconsideration of persons denied parole under this section and procedure for determining what sentence a person eligible for parole consideration pursuant to subsection A of this section would have received under the applicable matrix." The clear language mandates a mandatory procedure for determining what sentence a person eligible for parole consideration pursuant to subsection A of this section would have received under the applicable matrix. The context of this statutory phrase, language, purpose and design clearly directs a procedure for determining what sentence a person (whose eligibility date for consideration for parole has already been calculated pursuant to one-third (1/3) eligibility date). A person eligible for parole consideration would have received under the applicable matrix surely this statutory language is not confusing language nor does it focus on the calculation of parole eligibility dates, it mandates the above procedures based on eligibility dates for consideration of parole having already been established pursuant to § 332.7 (A) (1), for person crimes committed prior to July 1, 1998. The problem with the 10th Circuit's interpretation or lack of interpretation is that the whole of the Act for persons crimes committed prior to July 1, 1998 "focuses exclusively on the calculation of parole eligibility dates" to § 332.7 (A) (1) (3), it fails to analyze, examine and consider the clear language and the purpose and design of

the context of Supp. 1997-2018, § 332.7 (A) (1) (B) (1) (2) 1997 version and § 332.7 (A) (1) (F) (G) and (O) 2018 version effective date November 1, 2018 as a whole, for the statutory intent of the Act/laws for those crimes committed prior to July 1, 1998, as mandated by legislature for the replacement of the Oklahoma's Forgotten Man's Act/laws being abolished pursuant to its discretionary parole process. Now, giving way to a mandatory sentencing and control release pursuant to the statutory indeterminate sentencing guideline mandated pursuant to Section 6, 598, 599, 600 and 601, Chapter 133 O.S.L. (1997) upon consideration and/or reconsideration for parole within statutory range for parole release and/or discharge mandated by Oklahoma's Truth-in-Sentencing Act/laws pursuant to interpretation of statutory language, provision and procedures provided in Title 57, O.S. Supp. 2018, § 332.7 (A) (1) (F) (G) and (O).

This Court should grant de novo review because the United States District Court for the Western District of Oklahoma and the United States Court of Appeals for the Tenth Circuit failed to adjudicate petitioner's federal claim leaving his claim unaddressed. This case thus clearly and cleanly presented a federal constitutional claim/question to the lack of an analysis and examination to the statutory language, phrases, purpose, text, context, provision, procedures and intent of Oklahoma's Truth-in-Sentencing Act/laws pursuant to Title 57 O.S. Supp. 1997-2018, § 332.7 (A) (1) (F) (G) and (O), as mandated by the Oklahoma Legislature to be administered to: "Any person in the custody of the Oklahoma Department of Corrections for a crime committed prior to July 1, 1998," (1) a procedure for reconsideration of persons

denied parole (on a docket created for a type of parole "eligibility" consideration that has been abolished by the legislature "shall" not be considered for parole except in accordance with this section; (2) a procedure for determining what sentence a person 'eligible" for parole consideration pursuant to Subsection A (one-third) of this section would have received under the applicable matrix § 332.7 (F) (G) and (O) section 6, 598, 599, 600 and 601, Chapter 133 O.S.L. (1997) revived and re-enacted by effective date November 1, 2018.

It is equally clear that, despite Petitioner's assertion of a federal constitutional right and citation of relevant Supreme Court authority in *Kevin Kasten v. Saint Gobain Performance Plastics Corporation,* supra. The Tenth Circuit Court of Appeals failed to address this federal claim. Rather, following the lead of the United States District Court for the Western District of Oklahoma-which had focused its discussion and conclusion on an partial and/or in part examination and analysis of 332.7 (A) (3) and failed to make an examination and analysis pursuant to the mandated statutory language, phrases, context, design and purpose of 332.7 (F) (G) and (O). And, an interpretation of its statutory intent as a whole, for person's crimes committed prior to July 1, 1998 and/or even acknowledge a federal constitutional claim had been asserted on its merits but failed to address it separately from a state law statutory claim. *See* Sup. Ct. R. 10 (a) (c)

CONCLUSION

For the reasons above Petitioner's petition for a writ of certiorari to the United States Court of Appeals for the Tenth Circuit should be granted.

Respectfully submitted,

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April 2, 2020

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