No. 19-

IN THE

Supreme Court of the United States

CHRISTOPHER EWING, AKA ALEX CHRISTOPHER EWING,
Petitioner,

v.

STATE OF NEVADA,
Respondent.

On Petition for a Writ of Certiorari to the Nevada Supreme Court

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether the Uniform Criminal Extradition Act's guarantee that defendants have the right to "demand and procure counsel" requires state courts to appoint counsel for indigent defendants at extradition hearings where refusal to do so would violate the Sixth and Fourteenth Amendments of the Constitution of the United States?

PARTIES TO THE PROCEEDING AND RULE 29.6 STATEMENT

Petitioner is Christopher Ewing. Respondent is the State of Nevada. No party is a corporation.

RULE 14.1(b)(iii) STATEMENT

This case arises from the following proceedings in the Supreme Court of the State of Nevada, and the First Judicial District Court of State Nevada in and for Carson City:

Ewing v. *State*, Nos. 77670 & 77671 (Nev. Nov. 22, 2019)

State v. *Ewing*, Case No. 18 OC 00227 1B (1st Jud. Dist. Ct. Nev. Dec. 4, 2018)

There are no other proceedings in state or federal trial or appellate courts, or in this Court directly related to this case.

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PETITION FOR A WRIT OF CERTIORARI

Mr. Ewing respectfully petitions for a writ of certiorari to review the decision of the Nevada Supreme Court.

OPINIONS BELOW

The order of the Nevada Supreme Court is available at *Ewing* v. *State*, Nos. 77670 & 77671, 2019 WL 6307376 (Nev. Nov. 22, 2019), Docket No. 19-47893 (unpublished disposition), and is reproduced in the appendix to this petition at Pet. App. 1a–6a. The orders of the First Judicial District Court of the State of Nevada in and for Carson City is unpublished and is reproduced at Pet. App. 7a–15a. Justice Kagan's denial of Mr. Ewing's Emergency Application for Stay of Extradition to the Nevada Supreme Court is reproduced at Pet. App. 73a.

JURISDICTION

The Nevada Supreme Court entered judgment on November 22, 2019, Pet. App. 1a, and denied Mr. Ewing's petition for rehearing en banc on January 24, 2020, *id*. at 16a. This Court has jurisdiction under 28 U.S.C. § 1257. Pursuant to this Court's order on March 19, 2020, the deadline for filing this petition was automatically extended to 150 days from the lower court's order denying a timely petition for rehearing.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Sixth Amendment to the United States Constitution provides that "[i]n all criminal prosecutions, the accused shall enjoy the right . . . to have the as-

sistance of counsel for his defense." U.S. Const. amend. VI.

Section 1 of the Fourteenth Amendment provides:

> No state shall make or enforce any law which shall abridge the privileges or immunities 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.

U.S. Const. amend. XIV, § 1.

The statutory provision involved, Nev. Rev. Stat. Ann. ("N.R.S.") § 179.197, is set forth in the appendix to this petition at Pet. App. 18a.

STATEMENT OF THE CASE

The question of whether and when an extraditable defendant has a statutory or constitutional right to counsel is one upon which state courts interpreting identical statutes are split on the answer. At least five states—Colorado, Florida, Illinois, Texas and West Virginia—grant indigent defendants a statutory right to appointed counsel in extradition hearings. In contrast, states like Alabama and Nevada hold that the very same defendant has merely the privilege of obtaining counsel, a construction that improperly strips an indigent defendant of his right to counsel.

This interpretative divide takes on constitutional significance under the Sixth and Fourteenth Amendments. Specifically, ambiguity surrounding the proper interpretation of the Uniform Criminal Extradition Act ("UCEA") has facilitated a divide about the proper application of these core constitutional rights. Nevada, for example, categorically de-

nies that indigent defendants have a constitutional right to counsel in extradition hearings, relying on the notion that such hearings are not "critical stages" of a criminal proceeding. The Colorado Supreme Court, in contrast, repudiates this analysis, and encourages courts to "look beyond form to substance" when considering this question through a constitutional lens, given the number of extraditions under the UCEA each year and the potential stakes. *Mora* v. *Dist. Court in & for the First Judicial Dist. in & for the Cty. of Jefferson*, 494 P.2d 596, 597 (Colo. 1972) (en banc).

A. The Uniform Criminal Extradition Act

The Uniform Criminal Extradition Act provides a framework for interstate extradition. See Uniform Criminal Extradition Act, 18 U.S.C. §§ 3181–3196 (1936). Forty-eight states have adopted the UCEA, including both Nevada—where Mr. Ewing was imprisoned until March 2020, and Colorado—where he is currently being held. See N.R.S. §§ 179.177–179.235 and Colo. Rev. Stat. Ann. §§ 16-19-111 to 16-19-134. Nevada's version of the UCEA is materially similar to the uniform act.

At issue in this case is N.R.S. § 179.197, which provides that:

> No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding the person has appointed to receive the person unless the person is first taken forthwith before a judge of a court of record in this state, who shall inform the person of the demand made for surrender and of the crime with which the person is charged, and that the person has the right to demand and procure legal counsel.

This language mirrors § 10 of the UCEA, and is nearly identical to other state adaptations of the uniform law. For example, the same provision of Colorado's extradition law provides:

> No person arrested upon such a warrant shall be delivered over to the agent whom the executive authority demanding him has appointed to receive him unless he shall first be taken forthwith before a judge of a court of record in this state, who shall inform him of the demand made for his surrender and of the crime with which he is charged and that he has the right to demand and procure legal counsel.

Colo. Rev. Stat. Ann. § 16-19-111. The import of this congruity is clear: The same interpretative principles govern Nevada's and Colorado's interstate extradition proceedings, as is the case in forty-six other states.

B. Factual Background

Petitioner Christopher Ewing is an inmate previously in the custody of the Nevada Department of Corrections, who is currently being held in Colorado following his interstate extradition on February 28, 2020. Over thirty-five years ago, Mr. Ewing was arrested after committing a series of violent offenses in Nevada. He was found guilty of aggravated escape, burglary, attempted murder and use of a deadly weapon. Pet. App. 72a. He was sentenced to several consecutive terms in Nevada state prison totaling a maximum of forty years. *Id.* at 68a. Mr. Ewing, who is fifty-nine years old, has served all but one of his sentences and will first be eligible for parole in Nevada in 2021. *Id*. He would otherwise finish serving the remainder his sentence in 2037. *Id*.

In 2018, the State of Colorado obtained DNA evidence that purportedly linked Mr. Ewing to a series

of decades-old murders in two Colorado counties. Christopher Mele, *DNA Links Colorado Murders From 34 Years Ago to an Inmate*, N.Y. Times, Aug. 10, 2018, https://www.nytimes.com/2018/08/10/us/colorado-cold-case-murders-alexander-ewing.html. Based on this evidence, Colorado seeks to try Mr. Ewing on four counts of murder and two counts of crimes of violence. Pet. App. 7a. Colorado intends to imprison him for the remainder of his life if he is found guilty. Appendix to Application for Stay of Extradition at 65a, *Ewing* v. *Nevada*, No. 19A944 (U.S. Feb. 24, 2020) ("Appl. App.").

C. Procedural Background

On September 12, 2018, Nevada petitioned the Nevada trial court, seeking an order to extradite Mr. Ewing from Nevada to Colorado for the above-mentioned charges. When the trial court held the initial hearing one month later, Mr. Ewing requested counsel and, because he could not afford an attorney, further requested that the court appoint him one. The district court denied his request and Mr. Ewing was left to contest the extradition *pro se*.

Mr. Ewing then petitioned for a writ of habeas corpus in the state court, renewing his arguments for the appointment of counsel and challenging the validity of the extradition proceedings. Pet. App. 1a. During a hearing in December 2018, the Nevada trial court orally denied the habeas corpus petition. *Id.* at 8a. After the trial court issued its written opinion, Mr. Ewing sought review in the Nevada Supreme Court on December 14, 2018.

In the Nevada Supreme Court, Mr. Ewing mounted both statutory and constitutional arguments in support of his right to appointed counsel. Mr. Ewing observed that the language of Nevada's UCEA statute

gave him the right to demand and obtain the assistance of counsel and, because he could not afford one, he argued that the court should appoint counsel. *Id.* at 2a. Mr. Ewing also contended that he had a constitutional right to appointed counsel under the Fifth, Sixth, and Fourteenth Amendments of the United States Constitution and Article 1 and 2 of Nevada's Constitution. *Id.* at 3a. On November 22, 2019, the Nevada Supreme Court affirmed the judgment of the Nevada district court. *Id.* at 1a. The Nevada Supreme Court considered, and rejected, Mr. Ewing's arguments in turn. *Id.* at 16a.

First, the Nevada Supreme Court stated it was bound by earlier precedent that interpreted N.R.S. § 179.197(1) as not requiring appointed counsel during extradition proceedings. See *id.* at 2a (citing *Roberts* v. *Hocker*, 456 P.2d 425 (Nev. 1969)). The court concluded that under *Roberts*, a defendant was entitled only to the presence of counsel, not the appointment of counsel. The court further determined that Mr. Ewing had not presented a compelling reason to overrule *Roberts*. The court acknowledged the split of authority presented here, but explained: "That other states have interpreted the language in the uniform provision codified in Nevada as N.R.S. § 179.197 differently than this court did in *Roberts* is not a compelling reason to overrule *Roberts*, especially when this court was aware of contrary interpretations when it decided *Roberts*." *Id.*

Turning next to Mr. Ewing's constitutional arguments, the Nevada Supreme Court once again reaffirmed *Roberts* and held that Mr. Ewing's Sixth Amendment "arguments . . . lack[ed] merit because extradition proceedings are not a critical stage of a criminal proceeding such that [the constitutional right to counsel] attaches." *Id.* at 3a. The court de-

clined to analyze whether its *Roberts* decision satisfied either the Nevada or federal Constitutions. Instead, the court relied upon a Maryland Court of Appeals case for the proposition that extradition is not a critical stage. *Id.* (citing *Utt* v. *State*, 443 A.2d 582, 588–89 (Md. 1982)). Finally, the court dispensed with Mr. Ewing's remaining constitutional claim—a due process argument, relying solely on a 1968 Pennsylvania federal district court decision. *Id.* at 3a–4a (citing *United States ex rel. Huntt* v. *Russell*, 285 F. Supp. 765 (E.D. Pa. 1968)).

The Nevada Supreme Court denied Mr. Ewing's petition for rehearing on January 24, 2020. *Id.* at 16a. Mr. Ewing then filed an Emergency Motion to Stay Remittitur under Rule 41(b)(3) of the Nevada Rules of Appellate Procedure which permits a request for stay pending a petition to this Court for a writ of certiorari. The Nevada Supreme Court also denied this motion, on February 21, 2020. Mr. Ewing then petitioned Justice Kagan for an emergency stay of extradition, which Justice Kagan denied on February 25, 2020. *Id.* at 73a.

REASONS FOR GRANTING THE PETITION

I. REVIEW IS NECESSARY TO RESOLVE A CONFLICT BETWEEN THE STATE COURTS

A. State Courts are Divided Over the Proper Interpretation of the Uniform Criminal Extradition Act and This Divide Implicates Core Constitutional Rights.

The interpretative divide among the states regarding the UCEA's mandate that defendants may demand and procure counsel has led to the development of different legal frameworks for extradition hearings,

which, in turn, may cause different results for otherwise identical defendants. Although conflicting interpretations of the UCEA may alone warrant review, constitutional issues form the core of this dispute: equal treatment and the right to counsel.

The Supreme Court of Colorado has interpreted this provision as "establish[ing] a right to the presence of legal counsel" at extradition hearings and requiring the appointment of counsel for indigent defendants. *Mora,* 494 P.2d at 597. The courts of at least four other states—Illinois, Texas, Florida and West Virginia—have reached the same result when interpreting identical language. See *People ex rel. Harris* v. *Ogilvie*, 221 N.E.2d 265 (Ill. 1966) ("We therefore hold that section 10 of the Illinois Uniform Criminal Extradition Act . . . requires that counsel be appointed to represent indigent persons who do not have the means to procure counsel for themselves."); *Ex parte Turner*, 410 S.W.2d 639, 641 (Tex. Ct. App. 1967) ("We . . . hold that Section 10 of Article 51.13, V.A.C.C.P., which grants to persons arrested under the Act the right to demand and procure counsel requires that counsel be appointed to represent indigents who do not have the means to procure counsel for themselves."); and *Bentzel* v. *State*, 585 So. 2d 1118, 1120 (Fla. Dist. Ct. App. 1991) ("[I]t is our view that the language of section 941.10(1) which originated in the Uniform Criminal Extradition Act, gives a prisoner the right to legal counsel and that the Fourteenth Amendment prohibits the denial of this right to indigents, when it has been made available to those able to afford counsel."); *State ex rel. Jones* v. *Warmuth*, 272 S.E.2d 446, 450 (W. Va. 1980) ("[W]e have concluded that counsel must be furnished for indigents otherwise unable to procure their own counsel."). See also *People* v. *Braziel*, 169 N.W.2d

513, 514 (Mich. Ct. App. 1969) (per curiam) ("We are of the opinion that defendant, if indigent, is entitled to the appointment of assigned counsel, and that this result is required by section 10 of the Uniform Criminal Extradition Act . . . ."), *distinguished by Rutledge* v. *Preadmore*, 176 N.W.2d 417 (Mich. Ct. App. 1970) (holding that defendant has no right to counsel at extradition hearing before the governor).

In contrast, Nevada holds that a defendant's right to "demand and procure legal counsel" under N.R.S. § 179.177(1) "merely affords a defendant the privilege to have counsel present." Pet. App. 2a. In other words, there is no prohibition on retaining counsel during extradition proceedings pursuant to the UCEA, but courts are not required to appoint counsel. Alabama has interpreted this language in a similar manner. See *Sullivan* v. *State*, 181 So. 2d 518, 510 (Ala. Ct. App. 1965) ("Tit. 15, Sec. 57 . . . gives a person under arrest for rendition to another state the right to be represented by legal counsel in a habeas corpus proceeding. This statute does not, however, expressly require that such person be represented by court-appointed counsel if he is unable to employ counsel.").

Courts interpreting the relevant statutory language invoke in parallel a constitutional analysis. Colorado's framework, for example, relies upon the exercise of a constitutional right to counsel for indigent defendants—particularly when counsel would be available for defendants who are not indigent. In *Mora*, the Colorado Supreme Court expressly mentioned and rejected Nevada's approach in *Roberts*. 494 P.2d at 597 (citing *Roberts*, 456 P.2d at 425) (noting that the court was "concerned with substantive and procedural requirements in rendition proceedings, the observance of which governs the validity of the depriva-

tion of liberty"). Although the court ultimately decided the case on statutory grounds, it discussed the constitutional implications of the case at length:

> It is apparent on the federal constitutional level and on the state level, both as a matter of constitutional policy as expressed by this court and of legislative policy that criminal safeguards attach regardless of the formal designation of a proceeding if the proceeding substantively involves incarceration or other criminal sanctions.

Id. The court explicitly noted that these procedural safeguards should attach to habeas corpus matters, *id.*, and then, citing *Smith* v. *Bennet*, 365 U.S. 708 (1961), discussed its understanding "that the administration of criminal procedure safeguards must look beyond form to substance." *Id.*

Colorado expanded on *Mora*'s reasoning in *Denbow* v. *Dist. Court in & for Twenty-First Judicial Dist.*, 652 P.2d 1065 (Colo. 1982). The en banc panel of the court first affirmed its decision in *Mora*, noting that "because an extradition proceeding 'substantively involves incarceration or other criminal sanctions', criminal procedural safeguards attach regardless of the formal designation of the proceeding as civil." *Id.* at 1066 (quoting *Mora,* 494 P.2d at 597). The court then noted that, "[b]ecause such an appeal is concerned with criminal law issues and because . . . extradition involves a significant restraint on liberty, the appeal of the denial of the writ in an extradition proceeding is, in essence, a criminal appeal." *Id.* (internal quotation marks omitted). Accordingly, the Court "look[ed] beyond form to substance" and held that "where a person is indigent, the right to appointed counsel . . . extends to appeal of the denial of a writ of habeas corpus in extradition proceedings." *Id.* at 1067.

II. NEVADA'S ANALYSIS IS WRONG

A. The Nevada Supreme Court's Reliance on *Roberts* is Misguided.

The *Roberts* court's constitutional reasoning rested on analogizing the right to counsel in extradition proceedings to the right to counsel in parole-revocation hearings, which at the time were not considered "critical stages" in Nevada. See *Roberts* v. *Hocker*, 456 P.2d 425, 427 (Nev. 1969) (citing *In re DuBois*, 445 P.2d 354 (Nev. 1968) and *Smith* v. *Warden*, 450 P.2d 356 (Nev. 1969), *abrogated by Rahn* v. *Warden*, 498 P.2d 1344 (Nev. 1972)). The court held that, "[i]f a probation revocation hearing, where a defendant is subject to the loss of his liberty for an extended period of time, is not a critical stage of the criminal proceeding a fortiori, an extradition proceeding is certainly not a critical stage of the criminal proceeding." *Id*. Thus, the defendant had no constitutional right to counsel.

But three years after it decided *Roberts,* the Nevada Supreme Court abrogated *Dubois* and *Smith* by holding that a probation-revocation hearing *was* a critical stage of the crucial proceeding during which defendants have a right to counsel. See *Rahn* v. *Warden*, 498 P.2d 1344, 1347 (Nev. 1972). This reversal eroded the core presumption of *Roberts*, and should have left the opinion with little precedential value. Instead of recognizing this development, and addressing the effects of *Rahn*, the Nevada Supreme Court simply blindly followed the now-shaky reasoning in *Roberts*.

Even if *Roberts* had not been undermined by the Nevada Supreme Court in *Rahn*, the decision is fundamentally flawed. The *Roberts* court did not recognize the patent differences between an intrastate pa-

role-revocation hearing based on an earlier conviction and an interstate extradition hearing that exposed a defendant to an entirely different criminal proceeding and potential liability. Unlike a parole-revocation hearing, an adverse decision in an extradition hearing likely means additional sentences and greater deprivations of liberty for the extradited person. Indeed, in some cases, the extradition hearing may be one of the few remaining proceedings standing between a defendant and a death sentence. The *Roberts* court failed to consider this disparity in possible outcomes. As a result, the court relied on a false parallel to strip extraditable defendants of their constitutional rights.

B. Nevada's Failure to Provide Mr. Ewing, an Indigent Defendant, Counsel During His Extradition Hearing Violated Mr. Ewing's Constitutional Rights.

The Nevada Supreme Court's decision in *Ewing* ignores intervening developments in "critical stage" jurisprudence in the half-century since the *Roberts* decision. In *Woods* v. *Donald*, 575 U.S. 312, 315 (2015), this Court defined a "critical stage" as "one that held significant consequences for the accused." And, in *Rothgery* v. *Gillespie Cty.,* 554 U.S. 191, 212 (2008), this Court observed that "what makes a stage critical is what shows the need for counsel's presence." This Court has not squarely ruled on the applicability of the Sixth Amendment to post-trial extradition hearings. However, the severe consequences that attach to such proceedings lay bare the need for legal counsel. In this case, for example, Mr. Ewing would have been eligible for parole in 2021 and had a firm release date in 2037. See Pet. App. 68a. At the time he was extradited to Colorado, however, he faced capital charges

and a potential death sentence.[1] There can be no more critical a stage than one where the result could jeopardize a person's life. And the complicated nature of these proceedings make having counsel critical for obtaining a favorable result. See *Ogilvie,* 221 N.E.2d 265, 267 ("[L]egal expertise is necessary to consider and properly raise such pertinent questions as to whether the various extradition papers are in proper form, whether the arrested person is in fact a fugitive from justice subject to extradition, and whether he is in fact a person charged with a crime in the demanding State."). Accordingly, Nevada's refusal to provide Mr. Ewing with counsel violated his constitutional rights.

Even if the Sixth Amendment did not apply, Mr. Ewing still was entitled to counsel under the Fourteenth Amendment, a claim that Nevada all but ignored. This Court has repeatedly made clear that due process and equal protection considerations prohibit states from treating criminal defendants differently on account of their economic status. See *Griffin* v. *Illinois*, 351 U.S. 12, 18 (1956) ("There is no meaningful distinction between a rule which would deny the poor the right to defend themselves in a trial court and one which effectively denies the poor an adequate appellate review accorded to all who have money enough to pay the costs in advance."); *Douglas* v. *California*, 372 U.S. 353 (1963). Further, numerous state courts have recognized the unique deprivation of lib-

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[1] Colorado officially abolished the death penalty on March 23, 2020, just over three weeks after Mr. Ewing was extradited. SB20-100, 72nd Gen. Assembl. (Colo. Mar. 13, 2020) (to be enacted), *available at* https://leg.colorado.gov/bills/sb20-100. This precludes the death sentence for Mr. Ewing, but he still, at a minimum, faces a longer sentence than the one now ending in 2037, including life without the possibility of parole.

erty exacted by extradition hearings, regardless of its civil designation. See *Warmuth*, 272 S.E.2d at 450 (finding civil nature of extradition hearing should not preclude it from due process protections such as counsel as the "characteristics and ramifications of a proceeding" spawn such protections, not its label); *State* v. *Patton*, 176 P.3d 151, 157 (Kan. 2008) (finding due process and the right to counsel necessary under the threat of deprivation of liberty inherent in extradition hearings); *Kostic* v. *Smedley*, 522 P.2d 535, 537 (Alaska 1974) ("[W]here a possible deprivation of one's liberty is involved, as it is in an extradition matter, habeas corpus proceedings in relation to extradition will be considered criminal in nature.").

The court's steadfast reliance on *Roberts* disregards this body of law, and ignores this Court's mandate that "[b]oth equal protection and due process emphasize the central aim of our entire judicial system—all people charged with crime must, so far as the law is concerned, stand on an equality before the bar of justice in every American court." *Griffin*, 351 U.S. at 16–17 (quoting *Chambers* v. *Florida*, 309 U.S. 227, 241 (1940)).

C. The Nevada Supreme Court's Interpretation of the UCEA, as Adopted by N.R.S. § 179.197, Contravenes the Plain Meaning of the Phrase "Demand and Procure."

The lower court's interpretation of N.R.S. § 179.197 contravenes the plain meaning of the phrase "demand and procure." As used in N.R.S. § 179.197, and every other state adaptation of the UCEA, the words "demand" and "procure" are part of a single conjunctive phrase and thus must be construed together. See *Bruesewitz* v. *Wyeth LLC*, 562 U.S. 223, 236 (2011) (noting that "linking independent ideas is the job of a

coordinating junction like 'and'"). The construction ascribed to that conjunctive phrase must be a meaningful one. See *Rathbun* v. *United States*, 355 U.S. 107, 109 (1957) (statutes must be "interpreted in the light of reason and common understanding"). Here, the common understanding must be reached by analyzing the meaning of both demand and procure. "Demand" means "[t]o claim as one's due; to require; to seek relief." Demand, Black's Law Dictionary (11th ed. 2019), and "Procure" means "[t]o obtain (something)" or "[t]o achieve or bring about (a result)," Procure, Black's Law Dictionary (11th ed. 2019). Accordingly, the UCEA's mandate that "the person has the right to demand and procure legal counsel" should be understood as affording each person subject to a UCEA extradition hearing the opportunity to claim legal counsel *and* to actually obtain that counsel. If a person cannot afford counsel, counsel should be appointed by the presiding court—as the courts in Colorado, Illinois, Florida, Michigan and Texas have held.

The Nevada Supreme Court declined to adopt this interpretation of "demand and procure." Rather, it held that this phrase merely permits each person subject to a UCEA extradition hearing to retain counsel. This interpretation presents no issues when applied to a person of means—one able to pay counsel will be able to both demand and procure that counsel. However, the court's interpretation obviates this important UCEA right for indigent persons. These defendants have no way to pay for counsel, and therefore, they are only able to meaningfully exercise one-half of their UCEA right. In effect, Nevada's interpretation of the UCEA only grants indigent defendants the right to demand counsel. This interpretation is contrary to the plain meaning of the UCEA's text.

III. THIS CASE IS AN IDEAL VEHICLE

The record in this case is brief, yet it thoroughly develops the issues requiring review. Moreover, Mr. Ewing assiduously preserved all of these arguments at every stage of the proceedings—including the extradition proceedings where he made *pro se* objections to his extradition and protested his lack of counsel on the basis of his indigency.

Further, the facts of this case illustrate the importance of counsel at extradition hearings. Prior to Colorado's extradition request, Mr. Ewing was serving out the final years of his Nevada sentence. Grounds existed to challenge an extra-statutory memorandum between the governors of Nevada and Colorado pursuant to which Nevada extradited Mr. Ewing. Appl. App. at 64a–66a. Yet, at his extradition hearing Mr. Ewing was forced to proceed *pro se* even though capital charges loomed in Colorado. And, now that he has been extradited to Colorado, Mr. Ewing is exposed to a potential life-without-the-possibility-of-parole sentence. The egregious deprivations of liberty at stake in these complex proceedings make clear that defendants like Mr. Ewing require counsel. A decision by the Court would be dispositive on this important constitutional question.

CONCLUSION

For the foregoing reasons, the Court should grant the petition for a writ of certiorari.

Respectfully submitted,

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