

No. _____

19-8771

IN THE

SUPREME COURT OF THE UNITED STATES

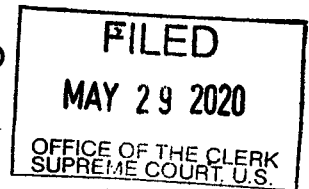
MICHAEL ALLEN RISENHOOVER PETITIONER
(Your Name)

vs.

ORIGINAL

WARDEN — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO



COURT OF APPEALS FOR NINTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

MICHAEL ALLEN RISENHOOVER ID#AN9272
(Your Name)

P.O. BOX 1050
SALINAS VALLEY STATE PRISON UNIT A-5 CELL 215
(Address)

SOLEDAD, CA, 93960-1050
(City, State, Zip Code)

N/A
(Phone Number)

QUESTIONS PRESENTED

- 1) DOES SENTENCING A FIRST TIME SEXUAL OFFENDER WHO HAS NO PRIOR CRIMINAL HISTORY TO 88 YEARS TO LIFE, SEND A DANGEROUS MESSAGE TO THE PUBLIC AND FUTURE OFFENDERS THAT MURDER IS LESS SERIOUS, TYPICALLY WITH A SENTENCE OF 25 YEARS OR LESS? DOES THIS SENTENCE THEREFORE ENCOURAGE FUTURE OFFENDERS TO MURDER THEIR VICTIMS TO AVOID THE GREATER SENTENCE?
- 2) PETITIONER MICHAEL AISENHOOVER WAS A DEPUTY SHERIFF WITH THE DEPARTMENT THAT CONDUCTED THE INVESTIGATION AND KNEW THE PRESIDING JUDGE. DID THIS PREVENT MR. AISENHOOVER FROM RECEIVING A FAIR TRIAL AND SHOULD A CHANGE OF VENUE BEEN GIVEN?
- 3) DID THE TRIAL COURT JUDGE ERROR IN NOT ALLOWING ESSENTIAL INFORMATION ON MENTAL HEALTH MEDICATION THE ACCUSER WAS TAKING AND HER HISTORY OF HALUCINATIONS AND DELUSIONS? THE JUDGE STATING "HE WOULD NOT ALLOW THE SUBJECT OF HER MENTAL HEALTH TO BE BROACHED." DID THIS VIOLATE MR. AISENHOOVER'S RIGHT TO PRESENT AN ADEQUATE DEFENSE AND RIGHT TO A FAIR TRIAL.
- 4) DID THE PREVIOUS LOWER COURTS ERROR IN NOT HEARING THIS CASE, OVERTURNING THE CONVICTION AND IN DENYING PETITIONER A CERTIFICATE OF APPEALABILITY.

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:

RELATED CASES

- THE PEOPLE OF THE STATE OF CALIFORNIA V. MICHAEL RISENHOOVER NO. VCF269969 FOR THE SUPERIOR COURT OF TULARE COUNTY, CALIFORNIA. JUDGEMENT ENTERED A&T. OCT 31 2012.
- THE PEOPLE OF THE STATE OF CALIFORNIA V. MICHAEL RISENHOOVER. NO. F067456 FOR THE COURT OF APPEALS OF CALIFORNIA FIFTH APPELATE DISTRICT. JUDGEMENT ENTERED: UNKNOWN
- RISENHOOVER V. WILLIAM MURVIZ, NO. 1:18-CV-00486-AWL-EPG FOR THE U.S DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA. JUDGEMENT ENTERED A&T MAR, 2019.
- RISENHOOVER V. WARDEN, NO. 19-15599 FOR THE U.S COURT OF APPEALS FOR THE NINTH CIRCUIT. JUDGEMENT ENTERED A&T MAR 2020.
- PEOPLE OF THE STATE OF CALIFORNIA V. RISENHOOVER NO. S229830 FOR CALIFORNIA SUPREME COURT. DATED JUNE 11. 2018

TABLE OF AUTHORITIES CITED

CASES

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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 C 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 C 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 ABT MAR 20 2020.

☐ 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: MAR 9, 2020, and a copy of the order denying rehearing appears at Appendix D. APRIL 17, 2020

☐ 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 UNKNOWN!
A copy of that decision appears at Appendix C.

☐ 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).

SEE APPENDIX C FOR AFFIDAVIT

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

VIII AMENDMENT OF THE U.S. CONSTITUTION
EXCESSIVE BAIL SHALL NOT BE REQUIRED, NOR EXCESSIVE
EXCESSIVE FINES, NOR CRUEL AND UNUSUAL PUNISHMENT.

I AMENDMENT U.S. CONSTITUTION
CONGRESS SHALL MAKE NO LAW RESPECTING AN ESTABLISHMENT
OF RELIGION, OR PROHIBITING THE FREE EXERCISE THEREOF; OR
ABRIDGING THE FREEDOM OF SPEECH, OR OF THE PRESS; OR
OF THE RIGHT OF THE PEOPLE PEACEABLY TO ASSEMBLE, AND TO
PETITION THE GOVERNMENT FOR A REDRESS OF GRIEVANCES.

VI AMENDMENT U.S. CONSTITUTION
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 INFORMED
OF THE NATURE OF THE ACCUSATIONS; TO BE CONFRONTED
WITH THE WITNESSES AGAINST HIM; TO HAVE COMPULSORY
PROCESS FOR OBTAINING WITNESSES IN HIS FAVOR, AND TO
HAVE THE ASSISTANCE OF COUNSEL FOR HIS DEFENSE.

UNIVERSAL DECLARATIONS OF HUMAN RIGHTS ARTICLE 8.
EVERYONE HAS THE RIGHT TO AN EFFECTIVE REMEDY BY
THE COMPETENT NATIONAL TRIBUNALS FOR ACTS VIOLATING
THE FUNDAMENTAL RIGHTS GRANTED HIM BY THE
CONSTITUTION OR BY LAW.

STATEMENT OF THE CASE:

I. DOES SENTENCING A FIRST TIME SEXUAL OFFENDER WHO HAS NO PRIOR CRIMINAL HISTORY TO 88 YEARS TO LIFE IN PRISON, SEND A DANGEROUS MESSAGE TO THE PUBLIC AND FUTURE OFFENDERS THAT MURDER IS LESS SERIOUS, TYPICALLY WITH A SENTENCE OF 25 YEARS OR LESS? DOES THIS SENTENCE THEREFORE ENCOURAGE FUTURE OFFENDERS TO MURDER THEIR VICTIMS TO AVOID THE GREATER SENTENCE. PETITIONER BELIEVES IT DOES AND IN DOING SO PUTS PUBLIC SAFETY AT GREATER RISK.

PETITIONER ARGUES THAT THIS SENTENCE CONSTITUTES CRUEL AND UNUSUAL PUNISHMENT BECAUSE IT CAN BE VIEWED AS A SENTENCE EQUAL TO KILLING 3 PEOPLE. THIS SENTENCE LEAVES NO POSSIBILITY OF A SECOND CHANCE AS PETITIONERS FIRST POSSIBILITY OF PAROLE IS WHEN HE IS 110 YEARS OLD. IT SHOULD BE NOTED THAT BASED ON FAMILY HISTORY ITS UNLIKELY PETITIONER WILL REACH 60. THE PRACTICE OF STACKING CHARGES (RUNNING EACH CHARGE CONSECUTIVE) IN A SINGLE SEXUAL CASE SENDS A DANGEROUS MESSAGE TO WOULD BE SEXUAL OFFENDERS THAT IF YOU COMMIT A SEXUAL BASED CRIME IT IS BETTER TO KILL YOUR VICTIM TO AVOID THE GREATER SENTENCE. ANYONE REASONABLE WOULD AGREE THAT MURDER IS FAR MORE SEVERE, ANY REASONABLE PERSON WOULD ALSO AGREE THAT IF THE DEAD COULD SPEAK THEY WOULD CHOOSE TO BE ALIVE, EVEN IF IT MEANT THE PERPETRATOR RECEIVED LESS OF A SENTENCE. YET BY STACKING CHARGES TO ACHIEVE A SENTENCE GREATER THAN COMMITTING 3 MURDERS IT SENDS THE MESSAGE THAT DEAD IS BETTER. PETITIONER BELIEVES THAT IF THE COURT WERE TO SPEAK TO THE FAMILY OF PEOPLE WHO WERE KILLED

STATEMENT OF THE CASE I CONT:

TO AVOID A GREATER SENTENCE, THEY WOULD AGREE THEY WOULD GIVE ANYTHING TO HAVE THEIR LOVED ONE BACK EVEN IF IT MEANT THE PERPETRATOR GETTING LESS TIME. TO CONTINUE THIS PRACTICE OF SEXUAL BASED CASES RECEIVING GREATER SENTENCE THAN MURDER IS CLEARLY UNUSUAL AND ILLOGICAL AND THE MESSAGE IT SENDS ENDANGERS SOCIETY AS A WHOLE. THE VIII AMENDMENT OF THE U.S. CONSTITUTION PROTECTS FROM CRUEL AND UNUSUAL PUNISHMENT. MR. RISENHOOVER CLEARLY BELIEVES THAT SENDING A MESSAGE THAT MURDER IS LESS SEVER THAN RAPE IN ITS SENTENCING PRACTICE IS CRUEL AND UNUSUAL. ALSO WHEN REVIEWING THIS CASE MR. RISENHOOVER WOULD LIKE THE COURT TO TAKE NOTE THAT THE UNIVERSAL DECLARATION OF HUMAN RIGHTS ARTICLE 8 STATES THAT "EVERYONE HAS THE RIGHT TO AN EFFECTIVE REMEDY BY THE COMPETENT NATIONAL TRIBUNALS FOR ACTS VIOLATING THE FUNDAMENTAL RIGHTS GRANTED HIM BY THE CONSTITUTION OR BY LAW." PETITIONER LAYS THIS HEAVY BURDEN ON THE HONORABLE U.S SUPREME COURT AS HIS COMPETENT REMEDY TO FIX A WRONG OF GREAT IMPORTANCE.

STATEMENT OF THE CASE:

II. PETITIONER WAS A DEPUTY SHERIFF WITH THE DEPARTMENT THAT CONDUCTED THE INVESTIGATION AND KNEW THE PRESIDING JUDGE IN THIS CASE. DID THIS PREVENT MR. RISENHOOVER FROM RECEIVING A FAIR IMPARTIAL TRIAL AND SHOULD A CHANGE OF VENUE BEEN GIVEN?

MR. RISENHOOVER BELIEVES THIS DID PREVENT HIM FROM RECEIVING A FAIR IMPARTIAL TRIAL AS GUARANTEED BY THE SIX AMENDMENT OF THE U.S. CONSTITUTION. MR. RISENHOOVER PRAYS THIS HONORABLE COURT WILL CONSIDER THE VERY SPIRIT OF THE SIXTH AMENDMENT, AND THE INTENT OF THE WRITERS TO ENSURE A FAIR TRIAL. MR. RISENHOOVER WAS A DEPUTY SHERIFF WITH THE DEPARTMENT CONDUCTING THE INVESTIGATION AND KNEW THE DETECTIVE AND KNEW THE PRESIDING JUDGE WHO HEARD HIS CASE. PETITIONER WAS DENIED A FAIR INVESTIGATION AND TRIAL. THE TRIAL BECAME A WAY FOR THE SHERIFFS DEPARTMENT AND THE JUDGE TO MAKE AN EXAMPLE OUT OF MR. RISENHOOVER AND EVERY DECISION MADE BY THE JUDGE AND SHERIFFS DEPARTMENT WAS AN EFFORT TO DISTANCE ITSELF FROM PETITIONER AND EVERY DECISION WAS OFF A PRESUMPTION OF GUILT, NOT INNOCENT UNTIL PROVEN GUILTY.

STATEMENT OF THE CASE:

III. DID THE TRIAL JUDGE ERROR IN NOT ALLOWING ESSENTIAL INFORMATION ON MENTAL HEALTH MEDICATIONS THE ACCUSER WAS TAKING OR TESTIMONY ON HER HISTORY OF HALUCINATIONS AND DELUSIONS? THE TRIAL JUDGE STATING "HE WOULD NOT ALLOW THE SUBJECT OF HER MENTAL HEALTH TO BE BROACHED. DID THIS VIOLATE MR. RISENHOOVERS RIGHT TO PRESENT AN ADAQUIT DEFENSE AND RIGHT TO A FAIR TRIAL.

MR. RISENHOOVER STRONGLY BELIEVES IT DID. THE VII AMENDMENT OF THE U.S CONSTITUTION GURANTEES THE RIGHT TO PRESENT AN ADAQUIT DEFENSE. BY THE TRIAL JUDGE NOT ALLOWING INFORMATION ON MENTAL HEALTH MEDICATION THE ACCUSER WAS TAKING AND PAST HISTORY OF DELUSIONS AND HALUCINATIONS IT MADE TRYING TO PROVE THAT THE ACCUSATIONS WERE A PRODUCT OF HER MENTAL HEALTH IMPOSSIBLE BY NOT ALLOWING CRUCIAL INFORMATION. HAD THE JURY HEARD THE MENTAL HEALTH EVIDENCE COUPLED WITH FAMILY HISTORY AND THE FACT THAT THE S.ART EXAM SHOWED HER HYMEN WAS STILL INTACT, THIS CASE WOULD HAVE HAD A VERY DIFFERENT OUTCOME.

STATEMENT OF THE CASE:

IV. DID THE PREVIOUS LOWER COURTS ERRON IN NOT HEARING THIS CASE, OVERTURNING THE CONVICTIONS AND IN DENYING PETITIONER A CERTIFICATE OF APPEALABILITY. MR. RISENHOOVER BELIEVES IT DID. THE LOWER COURT ERRORED IN UNDERESTIMATING THE IMPACT THAT COULD HAVE BEEN ACHIEVED HAD PETITIONER BEEN ALLOWED TO PUT INTO EVIDENCE MENTAL HEALTH INFORMATION ON THE ACCUSER. ALSO THE LOWER COURTS ERRORED IN THE CASE OF EQUITABLE TOLLING EVEN THOUGH PETITIONER CLEARLY SHOWED HE WAS UNDER THE CARE OF MENTAL HEALTH AND SUFFERED FROM SEVERE DEPRESSION COUPLED WITH NUMEROUS SUICIDE ATTEMPTS WHICH WAS RESPONSIBLE FOR HIS DELAY IN FILING. MR. RISENHOOVER PRAYS THIS COURT CAN APPERCIATE THE IMPACT OF BEING A DEPUTY SHERIFF CONVICTED OF SEX CRIMES WHO LOST HIS FAMILY AND WAS NOW SENTENCED TO LIFE IN PRISON AND THE IMPACT ON HIS MENTAL HEALTH. THIS AND BEING SURROUNDED BY INMATES WHO WOULD LIKE NOTHING BETTER THAN TO KILL THE PETITIONER CAUSED MR. RISENHOOVER TO BE PLACED IN AND OUT OF PRISON MENTAL HOSPITALS ALONG WITH EVERYTHING ELSE TO CAUSE HIS DELAY. THE 1ST AMENDMENT OF THE U.S CONSTITUTION GUARANTEES THE RIGHT TO PETITION THE GOVERNMENT FOR REDRESS OF GRIEVANCES. IT DOES NOT GIVE TIME LIMITATIONS AND SINCE IT IS AMBIGUOUS, CONTRACT LAW WOULD ARGUE THAT SINCE IT DOESNT STATE TIME LIMITATIONS IN THE CONSTITUTION THAT THE PERSONS WHO DID NOT DRAFT LAW SHOULD STAND TO GAIN IN AMIGIOUS SITUATIONS AND NOT THE GOVERNMENT. ALSO ARTICLE 8 OF THE UNIVERSAL HUMAN RIGHTS STATES THAT EVERYONE

STATEMENT OF THE CASE CONT IV

HAS THE RIGHT TO AN EFFECTIVE REMEDY BY THE COMPETENT NATIONAL TRIBUNALS FOR ACTS VIOLATING THE FUNDAMENTAL RIGHTS GRANTED HIM BY THE CONSTITUTION OR BY LAW. THE LOWER COURTS HAVE NOT BEEN EFFECTIVE AND THAT IS WHY HE BRING THIS CASE BEFORE THIS HONOURABLE COURT.

REASONS FOR GRANTING THE PETITION

PETITIONER MICHAEL ALLEN RISENHOOVER IN PRO-SE PRAYS THIS HONORABLE COURT WILL GRANT HIS PETITION FOR THE GREATER GOOD OF SOCIETY. THIS PETITION IS OF SUCH IMPORTANCE BECAUSE IF GRANTED IT WILL SHOW SOCIETY THAT THIS COURT IN ITS WISDOM SEEK THAT TO NOT GRANT IT WOULD ENCOURAGE FUTURE OFFENDERS TO POTENTIALLY KILL THEIR VICTIMS TO AVOID THE GREATER SENTENCE THAT OCCURS BY STACKING CHARGES. ALSO TO GRANT THIS PETITION WOULD SHOW THE PUBLIC THAT AT LEAST THE U.S SUPREME COURT HAS A GREATER WISDOM AND ARE TRULY INTERESTED IN THE PUBLIC GOOD AND ACTUAL JUSTICE THAT CANT BE BOUGHT WITH EXPENSIVE ATTORNEYS. BY GRANTING THIS PETITION THIS COURT HAS A CHANCE TO DENOMINATE QUESTIONS OF LAW WHICH ARE REVIEWABLE DE NOVO LIKE WHETHER STACKING CHARGES IN A FIRST TIME CASE UNTIL THE SENTENCE GREATLY EXCEEDS THAT OF MURDER SHOULD BE ALLOWED. THE COURT IN GRANTING THIS PETITION CAN AND PETITIONER PRAYS WILL ANSWER QUESTIONS OF FACT SUCH AS THE TRIAL JUDGE NOT ALLOWING CRUCIAL INFORMATION ON THE ACCUSERS MENTAL HEALTH MEDICATIONS AND HER HISTORY OF DELUSIONS AND HALUCINATIONS. ALSO THE FACT THAT THE S.A.R.T EXAM CLEARLY SHOWED THE ACCUSER'S HYMEN WAS INTACT SHOWING THE FACT THAT SHE WAS STILL A VIRGIN AND THE PETITIONER COULD NOT POSSIBLY OF RAPED THE ACCUSER. HAD ALLOWED THIS EVIDENCE THE TOTALITY WOULD HAVE CONVINCED A REASONABLE JURIST THAT THE ACCUSATIONS WERE NOTHING MORE THAN DELUSIONS CAUSED BY MENTAL HEALTH ISSUES, SUPPORTED BY FAMILY HISTORY OF MENTAL

REASONS FOR GRANTING THE PETITION CONT:

HEALTH ISSUES INCLUDING DELUSIONS AND HALUCINATIONS TO THE SEVERITY OF FAMILY MEMBERS NEEDING TO BE COMMITTED TO MENTAL INSTITUTIONS. PETITIONER BELIEVES THE JUDGE IN THIS CASE CLEARLY ABUSED HIS DISCRETION BY NOT ALLOWING VITAL EVIDENCE. PETITIONER ALSO BELIEVES THE LOWER COURTS ABUSED THEIR DISCRETION BY NOT GRANTING EQUITABLE TOLLING WHEN IT WAS CLEAR THAT THE DELAY WAS CAUSED BY PETITIONER HAVING MENTAL HEALTH ISSUES. SUPREME COURT RULE 10 (a) GOVERNING REVIEW ON CERTIORARI AND THE COURTS DISCRETION STATES: "A UNITED STATES COURT OF APPEALS HAS ENTERED A DECISION IN CONFLICT WITH THE DECISION OF ANOTHER UNITED STATES COURT OF APPEALS ON THE SAME IMPORTANT MATTER, HAS DECIDED AN IMPORTANT FEDERAL QUESTION IN A WAY THAT CONFLICT WITH A DECISION BY A STATE COURT OF LAST RESORT, OR HAS SO FAR DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS AS TO CALL FOR AN EXERCISE OF THIS COURTS SUPERVISORY POWER. GRANTING CERTIORARI ON THIS CASE IS OF SUCH IMPERATIVE PUBLIC IMPORTANCE AS TO JUSTIFY DEVIATION FROM NORMAL APPELATE PRACTICE AND TO REQUIRE IMMEDIATE DETERMINATION IN THIS COURT IN THE INTEREST OF THE LIFE OF FUTURE VICTIMS AND JUSTICE FOR THIS COUNTRY. SEE SUPREME COURT RULE 11 AND SEE 28 U.S.C § 2101(c). FOR THOSE REASONS PETITIONER PRAYS THIS COURT WILL GRANT CERTIORARI.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Michael Allen RL

Date: MAY 19 2020