

20-5146

No. \_\_\_\_\_

ORIGINAL

Supreme Court, U.S.  
FILED

JUL 06 2020

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Douglas Harry Warenback — PETITIONER  
(Your Name)

vs.

D.W. Neven, et.al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Ninth Circuit

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Douglas Harry Warenback

(Your Name)

1001 Las Palmas Entrada Ave #2212

(Address)

Henderson, Nevada, 89012-4497

(City, State, Zip Code)

702-503-9478

(Phone Number)

## QUESTIONS PRESENTED

### Question 1:

Has the Circuit Court violated my first Amendment right to access the courts by failing to provide any evidence that my request for certificate of appealability was even considered for its decision.

### Question 2:

Has the Circuit Court violated my 14th Amendment right for due process by only quoting this Court's case law (that actually had ruled in the favor of the defendant) to deny my request for a certificate of appealability.

### Question 3:

Does it really matter anymore.

## 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:

1. D.W. Neven, Warden, High Desert State Prison (2014)
2. Attorney General for the State of Nevada

## RELATED CASES

- *Warenback v. Neven*, No. 19-17420, United States Court of Appeals for the Ninth Circuit, Judgment entered June 30, 2020
- *Warenback v. Neven*, No. 2:15-cv-01789-APG-VCF, United States District Court, District of Nevada, Judgment entered November 26, 2019
- *Warenback v. Nevada*, No. 66294, Court of Appeals of the State of Nevada, Judgment entered April 14, 2015
- *Warenback v. Nevada*, No. 69536, Court of Appeals of the State of Nevada, Judgment entered May 18, 2016
- *Warenback v. Nevada*, No. 71902, Court of Appeals of the State of Nevada, Judgment entered July 12, 2017
- *Warenback v. Nevada*, No. 73381, Court of Appeals of the State of Nevada, Judgment entered February 13, 2018

## TABLE OF CONTENTS

OPINIONS BELOW .....	1
JURISDICTION .....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED .....	3
STATEMENT OF THE CASE .....	4, 44-60
REASONS FOR GRANTING THE WRIT .....	5-7
CONCLUSION .....	8

## INDEX TO APPENDICES

APPENDIX A	Order, 9th Circuit Court of appeals) case No. 19-17420, docket entry No. 6	9
APPENDIX B	Order, US District Court of Nevada, case No. 2:15-cv-01789, ecf No. 84	10-18
APPENDIX C	Order, US District Court of Nevada, case No. 2:15-cv-01789, ecf No. 77	19-20
APPENDIX D	Order, US District Court of Nevada, case No. 2:15-cv-01789, ecf No. 68	21-27
APPENDIX E	Order, Nevada Supreme Court, case No. 66294, (ecf 25-15, exhibit 91)	28-33
APPENDIX F	Order, Nevada Supreme Court, case No. 69536 (ecf 26-26, exhibit 127)	34-37
APPENDIX G	Order, Nevada Supreme Court, case No. 71902 (handwritten version is in ecf 61)	38-40
APPENDIX H	Order, Nevada Supreme Court, case No. 73381 (ecf 72-1, exhibit 128)	41-43
APPENDIX I	Request for Certificate of Appealability, 9th Circuit Court of appeals case No. 19-17420, docket entry No. 4	44-64
APPENDIX J	Arrest warrant, Las Vegas Metropolitan Police Department, event No.120903-0162, October 8, 2012	65-68

## TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Hohn v. United States 99 F.3d 892 (8th Cir. 1996)	2,5
Miller-El v. Cockrell, 537 U.S. 322, 327 (2003)	5
Slack v. McDaniel, 529 U.S. 473, 484 (2000)	5,6,9,18
Mayle v. Felix, 545 U.S. 644 (2005)	22,45
Sossa v Diaz, 729 F.3d 1225 (9th Cir. 2003)	45,62
Tollett v. Henderson, 411 U.S. 258 (1973)	23,24,46
Mahart v Beard, 849 F.3d 1164 (2017)	46
Nollette v. State, 118 Nev. 341,347, 46 P.3d 87,91 (2002)	50
Cullen v. Pinholster, 563 U.S. 170 (2011)	12,13,15,52
Strickland v. Washington, 466 U.S. 668 (1984)	13,14,15,17,52,58,59
Buschauer v State, 106 Nev 893-894, 804 P.2d 1046, 1048 (1990)	17,53,57,58,60
 STATUTES AND RULES	
28 U. S. C. § 1254	2
28 U.S.C. § 2253(c)(2)	9,18
U.S. Constitution 14th Amendment	ii,5,6,23,25,26,46,48, 49,50,53,57,58,59,60

## 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 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 B,C,D 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 \_\_\_\_\_ 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 June 30, 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: \_\_\_\_\_, 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).  
and Hohn v. United States, 524 U.S. 236.

☐ For cases from **state courts**:

The date on which the highest state court decided my case was \_\_\_\_\_.  
A copy of that decision appears at Appendix \_\_\_\_\_.

☐ 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**

**United States Constitution First Amendment**

**United States Constitution Sixth Amendment**

**United States Constitution Fourteenth Amendment**



## **STATEMENT OF THE CASE**

**I am submitting the probable cause arrest warrant to present the facts of the case, see appendix J (The complete warrant was never filed in any court docket.)**

### **Court order shepardize:**

**appx A based on appx I  
appx I based on appx's B,C,D  
appx B based on appx E at page 30  
appx C based on appx H  
appx D based on appx E,F,G**

## REASONS FOR GRANTING THE PETITION

Answer to question 1:

The Circuit Court stated (see appendix A), "...appellant has not shown...", is an entirety conclusory statement. There is no support to the statement. I claim it's plain abuse of discretion. Had I never filed my 21 page request for certificate of appealability (see appendix I), I allege the Court's order would be written exactly the same, it's nothing more than "copy and paste". It amounts to the possibility the Court may never had actually read my request. How can I be disproven? This is the precise problem when the Court fails to provide any explanation to support its conclusion.

I ask this Honorable Court to exercise my first amendment right to the ends of justice by remanding back to the Circuit Court to provide an explanation why my arguments in my request had failed. I ask this Honorable Court to review denovo my request for certificate of appealability, appendix I, that "I have shown". I claim it is of national importance that appellant courts should be accountable for their decisions, otherwise preventing the appellant to challenge the Court's logic and analysis that supported their conclusion.

Answer to question 2:

The Circuit Court calls out *Slack v. McDaniel*, 529 U.S. 473, 484 (2000), where *Slack* calls out *Hohn v. United States*, 524 U.S. 236. (and the circuit court called out *Miller-El v. Cockrell*, 537 U.S. 322). *Hohn* provides this Court jurisdiction to hear this instant petition. These cases were reversed and remanded in the favor of the

defendant, and set a standard to measure “substantial” met by the defendant, not a basis to deny. The Circuit Court refers to Slack, but completely fails to demonstrate why my issues fell below the standard established by this Court's case law. It all amounts to a fundamental violation of due process, the process of explanation.

Answer to question 3:

All my arguments in my request say one thing: it would have been impossible to have a fair and legal trial. After trial, all my issues would have been deemed “harmless”, and the burden still rests on me to prove a “different outcome”.

The state of Nevada remains unchecked. It is the purpose of the Judicial branch of the Government to put the Executive branch in check. Soon, there will be a million on the sex offender registration. Is this evidence the system is working? It is my case that demonstrates unchecked law and law enforcement results in “Counsel waived the procedural defects so I could plead to a fictitious charge”<sup>1</sup>. I challenge this Court to find any other case in US legal history where such statement is written. “Procedural defects”: now someone can be sent to trial (the State relying exclusively on speculation and probable cause) void of a proper pretrial burden of proof, or by pleading guilty, go to prison without a factual basis. So all that is ok?

This appears to me as case precedence, which I believe is of national importance because my case demonstrates a State has openly admitted they have put someone

---

<sup>1</sup> See appendix J at page 54, appendix E at page 30.


in prison without a factual basis. That defines a mis-carriage of justice that shocks the conscience, also know as outrageous government conduct.

I understand the purpose of this Court is to resolve matters of law alone, but I ask, what is the point to argue theories of law while the foundation on which the law rests is fundamentally broken.?

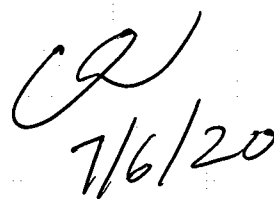
### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

  
\_\_\_\_\_  
Douglas Harry Warenback

Date: July 6, 2020



8.