

No. **20-5732**

IN THE

SUPREME COURT OF THE UNITED STATES

**ORIGINAL**

Ernest Seadin

— PETITIONER

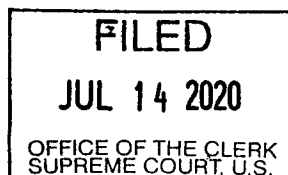
(Your Name)

vs.

Dean Williams, Director of the Colorado

Department of Corrections

— RESPONDENT(S)



ON PETITION FOR A WRIT OF CERTIORARI TO

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

**United States Court of Appeals for the Tenth Circuit**

PETITION FOR WRIT OF CERTIORARI

(Your Name)

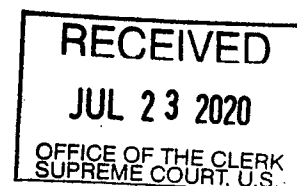
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## QUESTION(S) PRESENTED

1. Is the State of Colorado, the Colorado Courts, both State and Federal, subjecting Petitioner to a death in prison sentence by not giving him relief from a violated plea agreement in which the State of Colorado, Federal Government, and Petitioner all agreed to May of 1990?
2. Has the U.S. District Court of Colorado and the U.S. Tenth Circuit Court of Appeals violated Petitioner's Constitutional 14<sup>th</sup> Amendment of equal protection of the law by ignoring court rulings that prove Petitioner's case, that also make his claim legit?
3. Are the same Colorado Courts allowing Petitioner's Constitutional Eighth Amendment be violated by allowing the State of Colorado to continue incarcerating beyond his expiration of sentence when Petitioner has shown same Courts "new documentary evidence that prove his Colorado sentence expired January 2014?
4. With no escape conviction, <sup>can</sup> ~~can~~ Petitioner be penalized or have time added to his sentence?

## **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:

### **RULE 33.2**

Petition consists of 18 pages and 2494 words.

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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 Ap<sup>15</sup>g. 16 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.

☐ 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 April 7, 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: April 24, 2020, and a copy of the order denying rehearing appears at Appendix B page ~~47~~ 16.

☐ 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 \_\_\_\_\_.  
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**

The United States 8<sup>th</sup> and 14<sup>th</sup> Constitutional Amendments.



## STATEMENT OF THE CASE

May of 1990 Petitioner entered into a plea agreement with the Federal Government and the State of Colorado where he was informed that he would have a combined sentence of 30 years, both State and Federal. The State of Colorado does not take custody<sup>of</sup> Petitioner to complete Colorado's part of the agreement. Petitioner being in Federal custody has staff members call the Colorado county involved, (Colorado Crowley County) and that county refers the call to the Colorado Department of Corrections, who inform Petitioner that his time is running and that he has a discharge date of January 23, 2014. That date stayed in effect until 2012, when Petitioner was informed his sentence was being tolled until he was in Colorado custody. Petitioner tried through Colorado State Courts to remedy the matter, thinking it was just a clerical error, but received no relief. 2015 Petitioner filed Federal Case No. 15-cv-00915-LTB, pro se, claiming violation of the plea agreement. The case was denied and told he could not appeal the decision. Petitioner, not up on the law, knew not what to do.

Petitioner, through an attorney, file a petition for a Writ of Habeas Corpus in Denver City and County District Court of Colorado with new evidence and a new claim. (Case No. 2018cv30099) New evidence being "Notice of Colorado Parole Board Action" sheets. That 1/10/2018, petition

was denied 1/19/2018. Family members could no longer pay for attorney, so Petitioner, pro se, appealed to the Colorado Court of Appeals, (Case No.2018 CA402) which was denied 1/31 2019. The Colorado Supreme Court denied certiorari 6/6/19.

On June 27, 2019 Appellant filed an Application for a Writ of Habeas Corpus making two claims. One claim was “new evidence”; the other that the Colorado Department of Corrections (CDOC) was holding Appellant beyond termination of his sentence without penological justification in violation of the United States Constitutional Eighth Amendment. Appellant provided to the District Court documentary evidence of his CDOC sentence being served. The District Court refused to address Appellant’s two claims. Petitioner appeal to the U.S. Tenth Circuit Court of Appeals which also refused to look at the new evidence.

## **REASONS FOR GRANTING THE PETITION**

The United States District Court of Colorado, and the United States Court of Appeals for the 10<sup>th</sup> Circuit have allowed Petitioner to be subjected to a violated plea agreement, in Federal case No. 15-cv-00915-LTB, Seadin v. Rick Raemisch and M.A. Stancil.

The same Courts refused to address a new claim and new evidence (see Appendix C) when the 10<sup>th</sup> Circuit case (see cover page Appendix A, pg 15) allowed Petitioner to make the new claim.

The new evidence (Notice of Colorado Parole Board Action, Appendix C, pg. 17) is documentary evidence that Petitioner's Colorado sentence he is being held on has expired as of January 23, 2014. (See cover page Appendix C, on the Colorado Supreme Court declaring them to be documentary evidence).

Appendix D, page 18, is a letter showing Colorado's part in the plea agreement that was violated and not kept. Look at that 5 year sentence along with Colorado Revised Statute 17-22.5-101, 'one continuous sentence'. (Section of statute is on cover page of Appendix D)

Last the U.S. District Court of Colorado and the 10<sup>th</sup> Circuit Court of Appeals have allowed the State of Colorado use a Colorado Revised Statute, 17-22.5-401 (1) to justify extending Petitioner's sentence.

That part of the statute reads:

## **17-22.5-402. Discharge from custody**

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(1) No inmate shall be discharged from the department until he has remained the full term for which he was sentenced, to be computed on and after the date upon which the sentence becomes effective and excluding any time the inmate may have been **at large by reason of escape** therefrom, unless he is pardoned or otherwise released by legal authority.

With no escape conviction, the statute does not apply towards Petitioner's sentence. The State of Colorado through the Colorado Department of Corrections have extended Petitioner's sentence in violation of the United States Constitutional Eighth Amendment. Jurisdictions seem to get away with using an escape with no conviction to penalize prisoners.

## CONCLUSION

Petitioner has produced documentary evidence that show his time is finished. The use of a non-adjudicated escaped should not be allowed to extend petitioner's sentence. Petitioner's United States Constitutional Eighth and Fourteenth Amendments are being violated. Petitioner asks this Court to grant his petition, and order his release. Petitioner is 73 years old and hopes this Court will intervene before covid-19 takes him.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

  
Ernest Seadin

Date: July 14, 2020