

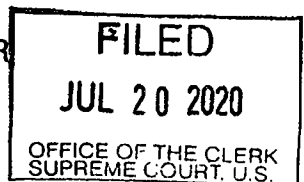
No. 20-5823

IN THE
SUPREME COURT OF THE UNITED STATES

certiorari

ORIGINAL

Michael R. Spengler PETITIONER
(Your Name)



vs.

Alex Villanueva, — RESPONDENT(S)
LOS ANGELES COUNTY DISTRICT ATTORNEY
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)

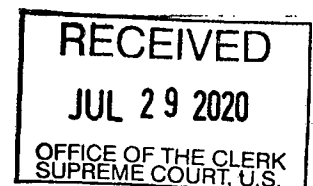
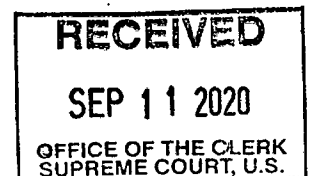
PETITION FOR WRIT OF CERTIORARI

Michael R. Spengler - #3984203
(Your Name)

T.T.C.F. LA County Sheriff's Jail
(Address)

450 BAUCHER STREET L.A. CA 90012
(City, State, Zip Code)

N/A
(Phone Number)



- COVER - PG. A

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SUPREME COURT OF THE UNITED STATES

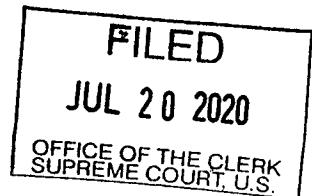
Certiorari

ORIGINAL

Michael R. Spengler PETITIONER
(Your Name)

vs.

Los Angeles County D.A. RESPONDENT(S)



ON PETITION FOR A WRIT OF CERTIORARI TO

THE U.S. 9th CIRCUIT COURT OF APPEALS
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Michael R. SPENGLER #3984203
(Your Name)

T.T.C.F. 450 BAUCHET STREET
(Address)

L.A. CA 90012
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

1) PURSUANT TO 28 USC 2241, A pretrial PETITIONER MAY CHALLENGE his CUSTODY THAT IS IN VIOLATION OF the CONSTITUTION & its LAWS and TREATIES.

COGNIZABLE CLAIMS BEING the CONTEMPLATED trial VIOLATES the DEFENDANTS CONSTITUTIONAL RIGHT TO /RIGHT OF BEING PLACED IN JEOPARDY TWICE. - DOES this pretrial SAFEGUARD INCLUDE resjudicata & COLLATERAL estoppel?

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 Alex Villanueva - holding custody of petitioner (SHERIFFS) 211 W. Temple St. L.A. CA 90012
- ② L.A. Co. D.A. Office - Respondents + prosecutors prosecuting petitioner: 210 W. Temple Street L.A. CA 90012
- ③ L.A. Superior Court - CASES KA105951/BA451330 Dept III - 210 W. Temple Street L.A. CA 90012

RELATED CASES

2:20-CV-00356 DUCSP/20-SS242 &
2:19-CV-08259-DUCSP/20-SS080

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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-C to the petition and is

☒ reported at 20-55242; 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 A-C to the petition and is

☒ reported at 2:20 CV 00356 Doc SP; 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 5-7-2020.

☐] 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: 6-11-2020, and a copy of the order denying rehearing appears at Appendix A-C.

☐] 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

- 1) 28 USC 2241
- 2) 28 USC 2283
- 3) ~~VI~~ Double Jeopardy clause
- 4) ~~V~~ Collateral estoppel

4

STATEMENT OF THE CASE

1) ON MAY 2014 PETITIONER WAS CHARGED WITH HIS CODEFENDANT FERNANDO GONZALES IN LAS.C CASE # KA105957 WHERE THEY WERE TRIED JOINTLY (NON SEVERANCED) FOR PC 187 OF A 4/9/13 POMONA P.D. MURDER OF MICHAEL MEZA & WENT TO PRELIMINARY HEARING ON DEC. 2014 + TRIAL OCT. 2016.

OVER SEVERAL OBJECTIONS BY THE PROSECUTOR AFTER PETITIONER & HIS CODEFENDANT'S SEVERANCE MOTION, THEY REMAINED JOINTED & PRIVIES TO EACH OTHER. GONZALES WAS OUTRIGHT ACQUITTED ON 187 1ST DEGREE & IT'S LESSER INCLUDED, PETITIONER ACQUITTED ON 1ST DEGREE & MISTRIAL/REFILE ON 2ND DEGREE (8-4) BAYSI 330 HOWEVER COUNTLESS

EVIDENCE & JURY INSTRUCTIONS WERE SUBMITTED & RETURNED: SPENGLER PETITIONER DID NOT AID PRINCIPAL GONZALES, CALL HIM, GONZALES'S DNA & CAR WAS NOT PRESENT & SIMILAR COLLATERALLY ESTOPPED ISSUES ALL BEING RELITIGATED (QUOTING STANDEFER)

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
ASHE v. SWENSON (1970) 397 US 436	6, 7
Bullington 451 US at 446	8, 11
Dowling v. US 493 US 342	7, 11
Green v. US 355 US 184	8, 11
Petta way v. Plummer 943 F2d 1041	6, 11
Standefer v. US 1980 447 US 10	10
State v. Corral 2010 16XAPP 16X15679	11
State v. Cotto 305 SW 3d 420	11
Tibbs v. Florida 457 US 31	8
Yeager v. US (2009) 557 US 110 et	6, 11
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STATUTES AND RULES	
28 USC 2241	5
28 USC 2283	5
V COLLATERAL estoppel / Double Jeopardy	5, 6, 9, 10, 11

OTHER

~~RE~~ REASONS FOR GRANTING THE PETITION #1

1128 USC 2241 pretrial Habeas review; 28 USC 2283 Anti-Injunction Act, AND THE Federal/USSC (SCOTUS's) YOUNGER ABSTENTION: (YOUNGER V. HARRIS 401 US 37) SPECIFICALLY STATES THAT THE DOUBLE JEOPARDY CLAUSE IV OF THE UNITED STATES CONSTITUTION IS AN EXCEPTION WHERE A FEDERAL HABEAS pretrial corpus petition CAN ENJOIN A STATE TRIAL/STATE COURT ACTION; WHICH IS PRECISELY WHAT PETITIONER HAS DONE: "CONSTITUTIONAL LAW > FUNDAMENTAL RIGHTS > procedural due process > DOUBLE JEOPARDY; CRIMINAL LAW & procedure > jurisdiction > COGNIZABLE ISSUES; CONSTITUTIONAL LAW AND CRIMINAL LAW & procedure > DOUBLE JEOPARDY > DOUBLE JEOPARDY PROTECTIONS:" THE FEDERAL COURT/pretrial Habeas/ANTI-INJUNCTION/YOUNGER ABSTENTION IS INAPPLICABLE WHERE "IRREPARABLE INJURY" CAN BE SHOWN - MEANING THREATS TO A DEFENDANT'S FEDERALLY PROTECTED RIGHTS - DOUBLE JEOPARDY IS ONE OF THEM - AND FEDERAL INTERVENTION IS JUSTIFIED WHERE PROSPECTIVE STATE PROSECUTIONS RUN AFOUL OF THE DOUBLE V JEOPARDY CLAUSE STEMMING FROM THE FACT THAT THE INJURY TO AN INDIVIDUAL'S DOUBLE JEOPARDY RIGHTS ARE ENDANGERED BY AN ILLEGITIMATE SUCCESSIVE RETRIAL IS NO LESS IRREPARABLE BECAUSE THE PROSECUTION COMES UNDER THE GUISE OF STATE RATHER THAN FEDERAL AUTHORITY & ABSTENTION IS UNWARRANTED WHEN A CRIMINAL ACCUSED PRESENTS A COLORABLE CLAIM THAT A FORTHCOMING SECOND TRIAL WILL CONSTITUTE A VIOLATION OF HIS DOUBLE JEOPARDY RIGHTS.

REASONS FOR GRANTING THE PETITION

PART 1 continued... pg. 2

DOUBLE JEOPARDY

THE QUESTION FOR REVIEW IS THIS:

- ASHE V. SWENSON (1970) 397 US 436
AND YEAGER V. U.S. (2009) 557 US 110
, 119, 129 S. CT 2360

- * THE DOCTRINES OF COLLATERAL ESTOPPEL AND RESJUDICATION ARE EMBODIED IN THE 5TH AMENDMENT'S DOUBLE JEOPARDY CLAUSE AGAINST DOUBLE JEOPARDY.

AND ALTHOUGH PETTAWAY V. PLUMMER 943 F.2d 1041 (HABEAS 9TH CIRCUIT + GRANT OF COLLATERAL ESTOPPEL) HAS IT'S DECISIONARY ISSUES: IT STILL CITES:

- * 1047 SCOTUS'S (ASHE V. SWENSON 397 US 444) WHERE THE CONSTITUTIONAL COLLATERAL DEPENDS ON THE ACTUAL CIRCUMSTANCES OF THE 2ND PROSECUTION. THE SCOTUS HELD THAT THE DOUBLE JEOPARDY CLAUSE BARS THE STATE FROM PROSECUTION, STATING: THAT ANY SUBSEQUENT PROSECUTION

REASONS FOR GRANTING PETITION

part 1 Double Jeopardy p. 3

IN which the Government relies on AN essential element of an offense the defendant has already been prosecuted on & where the state cannot proceed on any other theory, the state trial court should prohibit that prosecution on that theory/evidence.

* 1048 - IF the state is allowed to proceed on such conduct/evidence, it is likely that a 2ND JURY would convict him by reaching a verdict and conclusion contrary to one from the 1st trial. This possibility is Abhorrent to the principles underlying the U.S.S.C.

(SCOTUS's) DOWLING V. United States
493 US 342, 110 S. CT 668, 671-72
107 LEd 2d 708 (1990) citing ASHE
V. SWENSON 397 US at 445. The state
with all of its resources & power
should NOT be allowed to make
repeated attempts to convict an
individual & subjecting him to live in
A STATE OF ANXIETY, INSECURITY,
embarrassment, - expense & ordeal

B REASONS FOR GRANTING petition

PART 1 Double Jeopardy p. 4

(Green v. U.S. 355 U.S. 184, 187

2 L. Ed. 2d 1999, 78 S. Ct. 221) Giving the state an opportunity to rehearse

its presentation of proof, thus increasing the risk of an erroneous conviction

Tibbs v. Florida 457 US 31, 41 [72 L. Ed. 2d

652, 102 S. Ct. 221] preventing the

state from honing its trial strategies

& perfecting its evidence thru successive

attempts, having a full & fair opportunity

to offer whatever proof it could - The state

is not entitled to another - Bullington

451 US at 446.

FACTS:

① DEFENDANT/PETITIONER WAS NEVER

SEVERANCED - BUT HAD A JOINT TRIAL

WITH HIS CO-DEFENDANT & THE SAME PARTIES/

PRIVIES: DAMARTIN BEAN & HIS TEAM, VS. PETITIONER

& HIS CO-DEFENDANT KAIOSS 7 - A pre-requisite

OF COLLATERAL ESTOPPEL.

② TAKING INTO ACCOUNT AN ENTIRE

EXAMINATION OF THE RECORD: PLEADINGS,

TRANSCRIPTS, EVIDENCE & JURY INSTRUCTIONS

NOT APPARENT FROM THE MERE DOCKET

II REASON FOR GRANTING petition PART 1 Double Jeopardy p. 5 V

TO IDENTIFY those issues, the USDC/court would see that the 2ND Collateral Estoppel pre-requisite, is SATISFIED BECAUSE: these issues were DECIDED IN KA/US957. (crossexam/witnesses/Alibi/etc.)

ALTHOUGH petitioner received AN 8-4 ON the lesser included 2ND degree 187, HE received A FULL ACQUITTAL ON 1ST degree AND HIS CODEFENDANT received A FULL ACQUITTAL WAS RELEASED, INCLUDING SPECIAL FINDINGS THAT HE HAD AN ALIBY AND HIS DNA WAS NOT AT THE SCENE AND HE DID NOT PERSONALLY USE THE 9MM FIREARM, AND THAT DEFENDANT SPENCER DID NOT CALL HIM TO AID HIM/GUIDE HIM TO THE VICTIM'S LOCATION TO KILL HIM. (1st degree WAS based ON)

DEFENDANT SPENCER, HAVING NO witness/physical DNA/est/blood/prints/weapon or witnesses putting him there

- DUE TO A retrial - the state has ^{still} REUSED GONZALEZ'S evidence & theory. I CAN'T CALL/CONFRONT/EXAMINE HIM ^{*they're estopped}

B

REASONS FOR GRANTING petition

PART 1 Double jeopardy p. 6

THE prosecution relied on cellphone records. (Two theories) either he called GONZALES to do it, or he called the victim & drove by & did him himself. The jury chose the latter.

CERTIORARI:

- ★ BECAUSE petitioner SPENCER cites ASHE v. SWENSON & countless USSC CASE LAWS clearly establishing THAT COLLATERAL estoppel IS embodied IN the 5th AMENDMENTS DOUBLE JEOPARDY. SPENCER DOES NOT SAY he CANNOT be retried because yes he DID receive an 8-4 ON the 2/187, AND YES, AN AIDETABETTOR CAN be tried despite his PRINCIPAL'S ACQUITTAL (STANDEFER v. US (1980) 447 US 10, 100 S. Ct. 1999-

However the Question OF review & CONFLICT IS THAT IN STANDEFER, DEFENDANTS WERE NOT PARTIES TO EACH OTHER'S ACTION and WERE NOT ON A RETRIAL. IT'S NOT THAT PETITIONER IS BEING CHARGED AS AN A/ABETTOR. ^{only estopped evidence}

REASONS FOR Granting petition

Part 1 Double Jeopardy p.7

State v. Cotto 305 S.W. 3d 420 *

State v. Corral 2010 Tex App lexis 679

LexisHeadnote 2:

"Defendant must be a party to that litigation of the alleged principal * involving the same parties."

→ For MY:
Certiorari: (pretrial writ of H.C.)

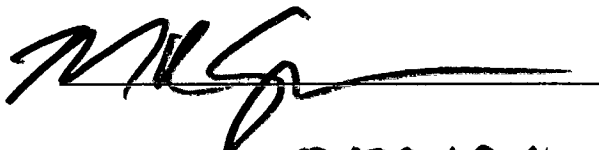
- ① → • Ashe would override Standefer
so would YEAGER, DOWLING, Green,
Tibbs, etc, BULLINGTON P matter of importance
so petitioner asks this court to review
pettaway v. plummer 943 F 2d 1041
because it contradicts USSC case law:
because petitioner's collateral estoppel claims
it is embodied in the 5th Amendment
against Double Jeopardy { 5th Amendment's
being a cognizable pretrial claim of
Habeas/Federal claims would it not
cover collateral estoppel issues?
A matter of extreme ^{public} importance &
petitioner submitted this pretrial H.C. the
writ for review: collateral estoppel is
embodiment into his pretrial writ →

~~the only way to get a writ of habeas corpus is to file a petition for a writ of habeas corpus~~

BECAUSE THE DOCTRINES OF
COLLATERAL ESTOPPEL + RES JUDICATA
ARE EMBEDDED IN THE V OF
THE US CONSTITUTION WITHIN S.C.O.T.U.S.'S
JURISDICTION, THERE IS NOT ONE
CASE LAW THAT EXTENDS ^{THE} C.E. ^(COLLATERAL ESTOPPEL) DOCTRINE
TO 28 USC 2241'S DOUBLE JEOPARDY
WRIT. IT IS A MATTER OF PUBLIC IMPORTANCE.
DOUBLE JEOPARDY SURELY IS RECOGNIZED
SO SHOULD CONCLUSION COLLATERAL ESTOPPEL.

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 8/29/20