

No. 20-5859

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



Kevin Blanke — PETITIONER
(Your Name)

vs.

Utah Board of Pardons — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE SUPREME COURT OF THE STATE OF UTAH
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

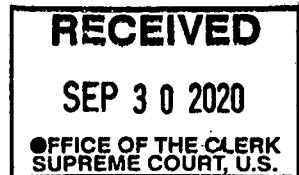
PETITION FOR WRIT OF CERTIORARI

Kevin Blanke #154364
(Your Name)

OQS-G28 Utah State Prison
(Address)

P.O. Box 250, Draper, Utah 84020
(City, State, Zip Code)

N/A
(Phone Number)



QUESTION(S) PRESENTED

In the interest of Justice, can a state Supreme court or a state court of Appeals, make disisions on issues in a civil case that was never properly adjudicated in the state district court, when that court orderd that the case could not be properly adjudicated without assistance of counsel, then adjudicated the case without that assistance.

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:

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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 _____ 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 is unpublished.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 is unpublished.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 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 is unpublished.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 Utah Court of Appeals court appears at Appendix B 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 is unpublished.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 _____.

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).

For cases from **state courts**:

The date on which the highest state court decided my case was 6-24-2020. A copy of that decision appears at Appendix A. Amended Opinion _____

A timely petition for rehearing was thereafter ~~denied~~ ^{filed on} _____ on the following date: 4-29-2020, and a copy of the ~~order denying~~ ^{order} rehearing appears at Appendix D. ~~Petition For~~ _____

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

IN THE INTEREST OF JUSTICE, 14th Amendment

MEANINGFUL ACCESS, 14th Amendment

DUE PROCESS 5th and 14th Amendment

EQUAL PROTECTION 5th and 14th Amendment

STATEMENT OF THE CASE

Petitioner is convicted in the state of Utah for attempted child kidnapping, a 3 year to life sentence and kidnapping a 1 to 15 year sentence. In Utah's indeterminate sentence system petitioners guidelines compute to 8 years. These guidelines have no force of law and Petitioner must rely on the fairness and the mercy of the Utah Board of Pardons to gain parole, "here after called the Board" In Utah the Board has been ruled a sentencing entity that acts analogous to a court see Labrum v. B.O.P. Petitioner's second parole hearing was in 2012 this hearing was 2 years over Petitioner's sentence guidelines. Petitioner was denied parole and received a 20 year rehearing. At Petitioner's age this sentence was death by rehearing. In Utah Board decisions can not be subject to judicial review see 77-27-5 (3) U.T. R. Crim. P. However the Board's unconstitutional actions at a Board hearing can be challenged under Rule 65 B(d)(2)(A)(D), a civil action for post conviction relief. Petitioner filed for relief under Rule 65 B, Petitioner cited state and federal case law and provided sworn affidavits and exhibits of record to prove his case. Petitioner cited Colman v. pretke on an issue of unconvicted sexual misconduct, a federal case. The Third District Court after reviewing the petition found that it did indeed contain complicated issues of law that could not be properly adjudicated without the assistance of counsel see Addendum (E). The court granted Petitioner's motion to appoint counsel. The court then failed to appoint counsel and continued to adjudicate the case, the court dismissed the case on summary judgement see Addendum (C). Petitioner then appealed the case to the Utah Court of Appeals see Addendum (B). That court still failed to remand the case back to the District Court for proper adjudication. Petitioner then petitioned for certiorary in the Utah Supreme Court. Certiorary was granted see Addendum (A). Petitioner brought his unconstitutional issues before that court and the court ruled against Petitioner on unrelated issues never argued in the lower courts. Petitioner filed for rehearing see Addendum (D) and again ask the Utah Supreme Court to remand the case for proper adjudication. The court reheard the case and ignored the true constitutional issues and still failed to remand the case for proper adjudication. Court amended its opinion see Addendum (A). But still failed to consider proper adjudication see Addendum (D)(1).

REASONS FOR GRANTING THE PETITION

Petitioner now moves the United States Supreme Court to grant this petition for the following reasons

- 1.) In the interest of Justice a Judge can appoint counsel in a civil action under 18 USC 3006 A(a)(2)(B) see ALSO US. v. Doe, 365 F.3d 150, 155 (2nd Cir 2004)
- 2.) Petitioners Court granted his motion to appoint counsel ruling that indeed this case involves complicated issues of law that can not be properly adjudicated without the assistance of counsel, see Addendum (E) The Court then ignored its own order and adjudicated the case without appoint counsel for Petitioner, this forced Petitioner to proceed without counsel. By this action the court obstructed meaningful access see Macelle v. Smith, 810 F.2d 344, 346-47 (2nd Cir 1987) ALSO Bounds. v. Smith 480 U.S. 823 (1977).
- 3.) The Utah Supreme erred when it failed to remand Petitioners case back to the third District Court for proper adjudication. Petitioner could not know how to properly adjudicate this case see Williams v. Leeke 584 F.2d 1336, 1339 (4th Cir 1974) see ALSO Petition for rehearing Addendum (D). Had the Utah Supreme Court remanded this case for proper adjudication the case would have a different outcome.
- 4.) The Utah Supreme Court based its opinion on issues that were never argued in the lower courts and never considered the true constitutional issues brought by this Petitioner. The Court based its opinion on Neese v. the BOP and if Petitioner met the standards in that case, See Addendum (A). Had Petitioners true constitutional issues been properly adjudicated and brought forward by a skilled attorney trained in the law, Petitioners access would be meaningful.

Even in a civil case, if the court rules that the case has complicated issues of law that can not be properly adjudicated without the assistance of counsel, then the court grants the petitioner's motion to appoint counsel. At that point a petitioner has a constitution right to counsel. Every person has a right to have their true constitutional issues properly adjudicated. Without that right then meaningful access means nothing. Petitioner now respectfully moves this to grant certiorari and to provide any relief that might be within its power.

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CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Kevin Blank
September

Date: September 14 2020

