

No. _____

20-6620

IN THE
SUPREME COURT OF THE UNITED STATES

Michael R. Spengler PETITIONER
(Your Name)

vs.

Los Angeles County District Attorney — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals ^{For the} 9th circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

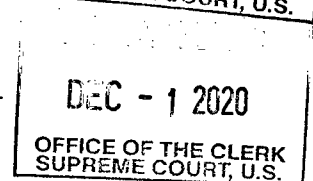
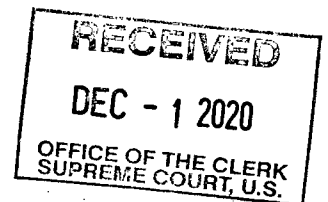
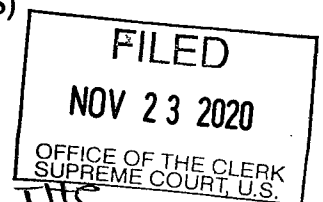
PETITION FOR WRIT OF CERTIORARI

Michael R. Spengler #3984203
(Your Name)

450 BAUCHET STREET
(Address)

LOS ANGELES, CA 90012
(City, State, Zip Code)

T.T.C.F. JAIL
(Phone Number)



A

QUESTION(S) PRESENTED

1. IN Filing A Federal Habeas Corpus FOR CRIMINAL DEFENDANTS IN CHALLENGING THE LEGALITY OF THEIR CONFINEMENT before their state trial (AFTER proving and/or ASSUMING his state remedies were exhausted) should the U.S. DISTRICT COURT APPLY 28 USC 2254 OR 28 USC 2241? AS 2241 IS NOT subject to the RESTRICTIONS OF the A.E.D.P.A. OF 28 USC 2254. AND SINCE 2241 IS likely (A CONTINUOUS pre-trial CONFINEMENT) is it subject to being DISMISSED with prejudice or successive, which petitioner feels that it should NOT be BECAUSE there are + will be CONTINUED Rulings in his state proceedings that should allow him to be allowed to File a 2nd or 3rd, etc. Habeas.

2) IT IS obvious that Double Jeopardy & it's embedded Collateral estoppel (5th Amendment) is a cognizable Habeas claim. However there are (2) MAJOR United States Supreme Court CASES (Standelefer) & (AShe V. SWENSON) IN CONTROVERSY that Needs resolution. THANK-YOU (related to + IN controversy of the estoppel doctrine)

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:

- LOS ANGELES COUNTY D.A. - 210 W. Temple Street
LOS ANGELES, CA 90012
 - LOS ANGELES Superior Court - Dept 111 - 210 W. Temple Street. L.A. CA 90012
- BOTH Preside over MY CRIMINAL CASE : BA451330 (2) COUNT 187
- reFile of KA105957 previously Dismissed / estopped

RELATED CASES

20-5823 - Sept. 28 2020 (SCOTUS)

20-5827 Sept. 28 2020 (SCOTUS)

3 their respective USDC / 9th
Circuit case #'s Assigned to
them.

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TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

- AShe v. SWENSON (1970) 397 US 436 et. 34, 5, 6
- DOMINGUEZ v. KERNAN 906 F3d 1127,
1129 9 cir 2018 - 4
- Govea v. ESPINDA 926 F3d 1102, 1111-12. 9 cir - 4
- HARRISON v. GILLESPIE 640 F3d 888, 896, 97 9 CIR. 2019 - 4
- JACOBS v. McCaughtry 251 F3d 596, 597-98 7 Cir 2011 - 4
- Mannes v. Gillespie 967 F2d 1310, 1312 9 cir 1992 - 5
- MARS v. Mounts 895 F2d 1342, 1351 N3 11 CIR 1990 - 5
- REIMINITZ v. States Attorney 761 F2d
~~STATUTES AND~~ 405, 410 7 cir 1985 - 5
- Standefer v. US 1980-447 - US 10 100 SCT 1999 3S, 6
- State v. Cotte 305 SW 3d 420 5
- State v. Corral 2010 TET APP 1e15 679 - 5
- * pettaway v. Plummer 943 F2d 1041 - 3

OTHER/CONSTITUTIONAL/STATUTES

22 USC 2241

2254

IV/Double Jeopardy

→ PG 4

→ 4

→ E 3, 5 + 6

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 B-D to the petition and is

☒ reported at see Attached; 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 to the petition and is

☒ reported at see Attached; 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 AUG. 18 2020 C.O.A. (Certificate of Appeal)

☐ 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: OCT. 1 2020, and a copy of the order denying rehearing appears at Appendix D.

☐ 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

IV Double Jeopardy clause of the United States Constitution and its doctrines of res judicata and collateral estoppel : When issues of ultimate facts have once been determined by a valid & FINAL JUDGEMENT between the same parties (interested parties) those issues CANNOT be relitigated AGAIN.

I.E. IF A previous COURT or JURY thru voir dire, pleadings, examination, cross & experts determined : IE A particular piece of evidence : CAR or DNA or WEAPON WAS NOT USED, it is Forever barred.
or theory : IN petitioner's CASE: petitioner CALLED to GIVE AID to GONZALES, as well as its evidence. petitioner seeks NO DISMISSAL & DOES NOT DISPUTE that he cannot be charged AS AIDING someone as Standefer SAYS. JUST NOT to GONZALES & his evidence. (Pettaway v. Plummer 943 F2d 1041 citing Ashe)

STATEMENT OF THE CASE

Federal Habeas Corpus provides CRIMINAL (state) Defendants with an important Mechanism For challenging the LEGALITY OF their CONFINEMENT before trial; Under 28 USC 2241, (NOT 2254) & therefore are NOT subject to the restrictions & strict Rules of A. E. D. P. A. (Gouveia v. Espinda, 926 F.3d 1102, 1111-12 9 Cir. 2019) "Because the review of petitioner's ~~V~~ Double Jeopardy claim proceeds under 2241 the deference owed to the State under 2254(d) is inapplicable... instead we apply the same standards of review on direct appeal. Dominguez v. Kernan 906 F.3d 1127, 1129 9 Cir. 2018. ~~see~~ ALSO. see ALSO Harrison v. Gillespie 640 F.3d 888, 896-97 9 Cir. 2011, Jacobs v. McCaughy 251 F.3d 846, 597-98 7 Cir. 2001. - FACTS: ON 6/23/20 FOLLOWING A NEW/reconsidered JUDGEMENT IN petitioner's state court where petitioner is facing a pretrial (2) count (87) petitioner Filed a NEW Federal Habeas Corpus ADDRESSING that he FACES Double Jeopardy because AGAIN, under the DOCTRINES OF collateral estoppel & res judicata OF the Double Jeopardy clause bars relitigation OF such issues: (see Ashe v. Swenson [1970] 397 US 436, et. The USDISTRICT court DENIED the petition by labling it a successive & 2254 writ. clearly erroneous when it is 2241 that applies, and petitioner cannot be "barred" when his judgement is far from over, is continuous, & issues continue to arise allowing him to file a 2241-

REASONS FOR GRANTING THE PETITION

FACTS: *Mannes v. Gillespie*: 967 F 2d 1310, 1312 9 Cir. 1992, BECAUSE FULL VINDICATION OF THE ~~THE~~ Double Jeopardy RIGHT requires intervention before TRIAL, FEDERAL courts MUST entertain such petitions. • *MATS v. MOUNTS* 895 F 2d 1348, 1351 N.3 (11 Cir. 1990), *Reimnitz v. State's Attorney* 761 F 2d 405, 410 7 Cir. 1985, There IS NO LONGER ANY DOUBT THAT A STATE CRIMINAL DEFENDANT WHO HAS A CLAIM OF DOUBLE JEOPARDY, MAY LITIGATE THAT ISSUE IN A 28 USC 2241 EVEN IF IT MEANS POSTPONING TRIAL. POSTPONING IT UNTIL AFTER CONVICTION UNDERMINES THE PURPOSE OF THE D.J. CLAUSE WHICH ENCOMPASSES COLLATERAL ESTOPPEL/RES JUDICATA (*Ashe v. Swenson* A S.C.O.T. U.S. CASE)

2ND) *Standefer v. U.S.* (1980) 447 US 10, 100 S. CT 1999 (SCOTUS) IS THE CASE IN CONTROVERSY WITH *Ashe v. Swenson*, THAT THE US DISTRICT COURT AND THE STATE COURT VAUUELY RELYS ON. ONLY SCOTUS CAN RESOLVE. IN PETITIONER'S CASE (APPENDIX E)

Standefer boldly but VAUUELY CLAIMS "A ACCOMPLICE CAN BE TRIED DESPITE PRINCIPAL" HOWEVER... *Standefer* DIDNT HAVE A JOINT TRIAL OR RETRIAL WITH ITS EVIDENCE, ISSUES + SAME PARTIES FULLY LITIGATED AS PETITIONER DID (*State v. COTTO* 305 SW 3d 426, *State v. Corral* 2010 Tex App Lexis 679.

petitioner HAS lost 8 years OF
his LIFE because OF this VAUGE
MISinterpretation OF Standefor THAT DOES NOT
CONFIRM WITH ASHE. IT IS INDISPUTABLE THAT
COLLATERAL ESTOPEL IS EMBEDDED IN THE
- Double Jeopardy Doctrine/Clause OF THE
UNITED STATES CONSTITUTION, AND D.J. BEING
A COGNIZABLE CLAIM. PETITIONER FACES DEATH
BUT IRREPARABLE INJURY OF Federally protected
RIGHTS. AND ONE CANNOT BE BARRED OR SUCCESSIVE
FOR continued JUDGEMENTS AGAINST HIM.

CONCLUSION

- please -
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The petition for a writ of certiorari should be granted.

Respectfully submitted,

Michael R Spengler

Date: Nov. 15 2020