

See HOLY BIBLE See Job 36:6

See Psalm 103:6

See Philippians 1:29

See 1 Peter 2:19

REOPEN

"EQUAL JUSTICE UNDER THE LAW"

No. _____

20-665

IN THE

SUPREME COURT OF THE UNITED STATES

DAMON B. Cook — PETITIONER
(Your Name) PRO SE

VS.

George M. Galaza — RESPONDENT(S)

FILED

OCT 16 2020

OFFICE OF THE CLERK
SUPREME COURT, U.S.

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS

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

PETITION FOR WRIT OF CERTIORARI

DAMON B. Cook

(Your Name)

KVSP C2-112, P.O. Box 5103

(Address)

DeLANO, CA. 93216

(City, State, Zip Code)

N/A

(Phone Number)

QUESTION(S) PRESENTED

- 1.) Whether The Petitioner DAMON COOK Has Made A Substantial Showing of The Denial of A Constitutional Right Pursuant To 28 USC 2253(C)(2) IN Order To Obtain A Certificate OF APPEALABILITY ?
- 2.) Whether There Was INSUFFICIENT Evidence of Force To Establish Petitioner DAMON COOK's Guilt Beyond A Reasonable Doubt ?
See People v. Griffin (2004)
33 CAL. 4th 1015
16 CAL. RPT.R. 3d 891
94 P.3d 1089
- 3.) Whether The Petitioner DAMON COOK Suffered CRUEL AND UNSUAL PUNISHMENT IN Violation Of The 8th Amendment To The United States Constitution For being IN State CUSTODY For 23 Years For Crimes The State Failed To Prove ?
See Kelly v. Roberts (10th cir. 1993) 998 F.2d 802, 809-10, FN11.
See Fiore v. White (2001) 531 U.S. 225, 229
121 S.C.T. 712, 148 L.Ed. 2d 629
See Juan H. v. Allen (9th cir. 2005) 408 F.3d 1262
See United States v. DeSena (2001) 26 F.3d 150, 154-156
See Gregg v. Georgia (1976) 428 U.S. 153, 173
96 S.C.T. 2909, 2925

CONTINUED

QUESTION(S) PRESENTED

4.) Whether The District Court's denial of Petitioner DAMON COOK's Rule 60(b)(6) Motions Was AN ABUSE of DISCRETION ?

See Buck v. DAVIS (2017)
137 S.C.T. 759, 778
2017 U.S. Lexis 1429
197 L.Ed. 2d 1

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Prayer Request

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APPENDIX B -	PETITIONER'S First Timely Notice OF APPEAL AND REQUEST FOR A Certificate OF APPEALABILITY
APPENDIX C -	PETITIONER'S Second Timely Notice OF APPEAL AND REQUEST FOR A Certificate OF APPEALABILITY
APPENDIX D -	THE U.S. DISTRICT COURT'S ORDER DENYING PETITIONER'S MOTION TO REOPEN THE FIRST FEDERAL HABEAS CORPUS CASE
APPENDIX E -	PETITIONER'S MOTION TO REOPEN THE FIRST FEDERAL HABEAS CORPUS CASE
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TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

See Buck v. Davis (2017) 137 S.Ct. 759, 5. Continued
778 - see Page(5) on Motion To REOPEN The CASE

See HALL v. HAWS 9th Circuit (2017)
861 F.3d 977, 987 - See Page(5) ON Motion
TO REOPEN The CASE

See Jackson v. Virginia (1979) 443 U.S. AT 316 3,6
99 S.Ct. 2781

See IN RE WINSHIP, 397 U.S. 358, 364 3,6
90 S.Ct. 1068, 25 L.Ed.2d 368 (1970)

STATUTES AND RULES

See Federal Rule Civil Procedure 60(b)(6)

See Phelps v. Almeida (9th Cir. 2009)

569 F.3d 1120 2nd Motion 6 Years From 1st Motion

Purpose of Rule 60(b) IS To Correct
Erroneous Legal Judgments That Would
Prevent The True Merits of Petitioner's
CONSTITUTIONAL Claims from ever being Heard

See Petitioner's Motion To REOPEN The CASE

See Petitioner's 1st AND 2nd Timely Notice of Appeal AND
Request For A Certificate OF APPEALABILITY

See 28 U.S.C. 2253(C)(2)

OTHER

See People v. Griffin (2004) 3
33 CAL.4th 1015 (Force Element)
16 CAL. RP+R.3d 891
94 P.3d 108

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 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 AUGUST 6, 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).

☐ 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

- 14th AMENDMENT To The United States CONStitution
See JACKSON v. Virginia (1979) 443 U.S. AT 316
99 S.C.T. 2781
- See IN RE WINSHIP, 397 U.S. 358, 364
90 S.C.T. 1068, 25 L.Ed.2d 368 (1970)
- See Fiore v. White (2001) People v. Griffin (2004)
531 U.S. 225, 229 33 CAL.4th 1015
121 S.C.T. 712 16 CAL.RPTR.3d 891
- See Petitioner's Motion To REOPEN The CASE
APPENDIX E
- See Petitioner's First Timely Notice OF APPEAL AND
REQUEST FOR A Certificate OF APPEALABILITY
APPENDIX B
- See Petitioner's Second Timely Notice OF APPEAL AND
REQUEST FOR A Certificate OF APPEALABILITY AND
APPENDIX C - NO TRIAL TESTIMONY ON THE ELEMENT OF FORCE
- 8th AMENDMENT To The United States CONStitution
See Gregg v. Georgia 428 U.S. 153, 173
- See Petitioner's Second Timely Notice of APPEAL AND
REQUEST FOR A Certificate OF APPEALABILITY
PAGE (2) At The Very Lower PAGE Below
NUMBER LINE 28
- See 28 U.S.C. 2253(C)(2) (COA)
INSUFFICIENT EVIDENCE OF FORCE
HAS BEEN PROVEN (Denial OF FAIR
DUE PROCESS OF LAW)
(IN Violation Of The
14th AMENDMENT)
- 3.

STATEMENT OF THE CASE

See The United States Magistrate Judge's
Report And Recommendation ON
The First Federal Habeas Corpus
Petition IN The CASE OF:

DAMON B. COOK v. George M. GALAZA
IN CASE NUMBER CV00-8569 RJK-(MC)
For The FACTS AND
STATEMENT OF THE CASE.

See Kelly v. Roberts (10th Cir. 1993)
998 F.2d 802, 809-10, FN 11.

REASONS FOR GRANTING THE PETITION

This United States Supreme Court Should Grant The Petition For Writ of Certiorari IN The INTEREST OF JUSTICE IN THIS CASE.

This United States Supreme Court Should Grant The Petition For Writ of Certiorari To Resolve The Important Question Presented For Review To Determine Whether The Petitioner DAMON COOK Has Made A Substantial Showing Of The Denial Of A Constitutional Right Pursuant To 28 U.S.C. 2253(C)(2) IN Order To Obtain A Certificate Of Appealability?

This United States Supreme Court Should Grant The Petition For Writ of Certiorari To Resolve The Important Question Presented For Review To Determine Whether There Was INSUFFICIENT Evidence of Force To Establish Petitioner DAMON COOK's Guilt Beyond A Reasonable Doubt?

This United States Supreme Court Should Grant The Petition For Writ of Certiorari To Resolve The Important Question Presented For Review To Determine Whether The Petitioner DAMON COOK Suffered CRUEL AND UNSUAL PUNISHMENT IN Violation Of The 8th Amendment To The United States Constitution For being IN State Custody For 23 Years For Crimes The State Failed To PROVE?

CONTINUED

REASONS FOR GRANTING THE PETITION

This United States SUPreme COURT Should Grant
The Petition For writ of Certiorari To Resolve
The IMPortant Question Presented For Review
To Determine Whether The District COURT^{'s} denial
OF Petitioner DAMON COOK^{'s} Rule 6d(b)(6) motions
Was AN Abuse of Discretion ?

See BUCK v. DAVIS (2017)
137 S.C.T. 759, 778
2017 U.S. Lexis 1429
197 L.Ed. 2d 1

This U.S. Supreme Court Have Held That The DUE PROCESS Clause Of The Fourteenth Amendment Forbids A State To Convict A Person Of A Crime Without Proving The Elements Of That Crime Beyond A Reasonable Doubt.

See JACKSON 443 U.S. AT 316

See IN RE WINSHIP 397 U.S. 358, 364
90 S.C.T. 1068, 25 L.Ed. 2d 368 (1970)

See Fiore v. White (2001) (No Trial Testimony
531 U.S. 225, 229 ON The Element of Force)
121 S.C.T. 712 (INSufficient Evidence
of Force)

"EQUAL JUSTICE UNDER THE LAW"

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Damon B. Cook

Date: 9/16/2020

See HOLY BIBLE

See PSalm 103:6

See Job 36:6