

April 06, 2021

IN THE SUPREME COURT OF
THE UNITED STATES

ROGER DARRYL WALDREP - Petitioner

VS.

ADOC Director David Shinn, A.G. A.L.

Respondents

ON PETITION FOR A WRIT OF CERTIORARI
TO U.S. COURT OF APPEALS FOR
THE NINTH CIRCUIT NO. 20-16148

"PETITION FOR REHEARING"

Roger Darryl Waldrep #309512 ADOC

Kingman Prison, Hvacua Unit 4D41L

P.O. Box 6639, Kingman, AZ 86402

Honorable Supreme Court Justices, Clerks,

I, Roger Darryl Waldrep, a pro-per, in forma
pauperis petitioner comes forward to present this
"Petition For Rehearing", to the Denial of a
"Writ of Certiorari", entered March 01, 2021.

I. I received the letter from the Office of
the clerk, dated March 23, 2021, But it was not
delivered to me by Kingman Prison Mail until

RECEIVED

APR 20 2021

OFFICE OF THE CLERK
SUPREME COURT U.S.

April 06, 2021. As I signed the Mail Clerk's Invoice for Receiving Legal Mail on April 06, 2021. I was shocked to see the Due Date of 15 Days from the date of the letter, as I received it on the 14th day, 04/06/2021.

I have corrected and resubmitted to Kingman Prison Mail System on 04/07/2021.

I Apply FED. SUP. COURT RULE 29.2 - and it was submitted by an inmate confined in an institution, a "Document is Timely Filed if it is Deposited in the Institution's Internal Mail System on or before the last day for filing."

Kingman Prison Mail System
officer:

Legal Stamp - as time-date

Signed Roy Wilho

II.

Petitioner brings the following New Grounds just discovered in Plea Agreement, and Intervening Circumstances of substantial or controlling effect or other substantial grounds not previously presented.

These are aimed at resolving National Issues that will affect many citizen's cases that are pending and ones that will follow.

Pending Sup.Ct Case No 20-1080 is New Evidence-

III.

QUESTIONS PRESENTED: "All Grounds will be Substantially effected by Pending case No. 20-1080"

1.) Whether a performance that Breaches a plea offer is binding and enforcable on both parties equally?

2.) Whether the exact same statute, under the same criminal code, be labelled a "DANGEROUS CRIME", and a "NON-DANGEROUS CRIME", at the same time, on the same Sentencing Report and Plea Agreement?

3.) Whether a defendant can plead guilty, voluntarily and knowingly, to a law that was "Unconstitutional On It's face", and by states "Confession of error"? As Pending Sup.Ct Case No. 20-1080 brings Intervening and Controlling Effect (May v Shinn), to be decided by this Sup.Ct.

4.) Whether a Law is "UNCONSTITUTIONAL" if it "PRESUMES GUILT OF A SEX OFFENSE" upon all U.S. citizens for an activity as Benign as a Parent or Caregiver changing a child's diaper? By Intervening Circumstances and a Controlling Effect on my case, the Sup. Court Pending Case No. 20-1080 (May v Shinn) will directly and immediately effect my §2254 Petition. This is Newly Discovered Evidence, as I received this docket sheet (pg. 11) on April 06, 2021, and saw the Supreme Court Pending Case No. 20-1080. The docket sheet was only printed on 03/13/2021 and not delivered by Prison Mail until April 06, 2021, along with the Clerk's letter for A Correction and resubmission of this "Petition For Rehearing."

5.) Whether A trial date is set to begin in 21 Days later, is this a Legal Reason to deny a defendant his right to Self-Representation?

Is a U.S. Citizen's right to proceed as Self-Representation, and right to control one's own defense determined by time limit?

IV. RELATED PROCEEDINGS under Rule 14(b)(iii)

or-as it challenges the same criminal conviction or sentence as is challenged in this court.

This Petitioner is challenging the same "Unlawful Sentence" as is challenged in this Supreme Court in Case No: 20-1080,

filed "Timely Notice that the Petition For Certiorari was Timely Filed Pursuant To FRAP 41(1)(2)(3)(ii) Declaration of Erica T. Dubno, ESQ." date of service; 02/01/2021, Entered 02/10/2021 as Pending (doc 131), Court of Appeals #17-15603

(Stephen May v David Shinn, et al) on Appeal from U.S. District Court for Arizona, Phoenix - Termel 03/27/2020 District 0970-2 2:14 CV-00409-MVW filed 02-28-2014.

As the Pending Decision in this court on (May v Shinn) No. 20-1080 will Directly Effect my case, (Waldrep v Shinn), NO. 20-6751; as Same challenge made in Both Above Cases to Sentencing and ARS statutes in Violation of the Due Process Clause; Presumption of Guilt; Reversal of Burden of Proof on essential elements of offense(s).

1. Roger Waldrep, bring my case as a JOINDER in Complaint, and my case may be

adjudicated at the same time, by the same decision now Pending in (May v Shinn No. 20-1080). This would expedite and streamline this courts honorable and valuable time.

VI. REASONS To GRANT THE PETITION

1.) Reason from Question one. This appellants Plea Offer Agreement was made VOID by the language, terms put in by the Drafter, the State of Arizona, as page one reads;

" THIS OFFER EXPIRES AND IS VOID IF NOT ENTERED IN COURT BY MARCH 03, 2016 "- end

By the drafter's own terms, my plea agreement is VOID, not VOIDABLE, because it was never produced, initialled, signed by either party of Mr. Waldrep, or State Prosecutor, or the Court date entered ON MARCH 09, 2016. - Not March 03, 2016.

This is clearly six legal days after the Agreement became VOID.

This is Newly Discovered Evidence, as legal Counsel has pointed this out to petitioner for the First Time on March 11, 2021, in preparing for this "Petition For Rehearing."

2.) Reason to grant on Question two; The ARS statutes on Petitioner's Plea and Sentence are clearly designated as "DANGEROUS CRIMES" and "NON-DANGEROUS CRIMES";

3.) Reason To Grant Petition, as Question Three has Intervening Circumstances, and Pending Sup. Ct Case No. 20-1080 has controlling effect on my case. The (May v Shinn case NO. 20-1080) Does and Will have a SUBSTANTIAL EFFECT as the Decision will be a New Precedent on my exact issues, that the District Court and USCA 9 side-stepped without any decision on the same Constitutional question before this court in (May v Shinn).

4.) Reason to Grant Petition, as this Sup. Ct has a Pending Case No. 20-1080, which will be and is intervening circumstances with a Substantial effect on my case presented here. This pending Case No 20-1080 (May v Shinn) will provide a Controlling effect on my petition.

This Pending case will directly impact my adjudication on same issues, already Granted \$2254 Habeas Relief by USDC Judge Neil Wake, then Affirmed in USCA 9th circuit, then Vacated by USCA 9, now in S. Ct No. 20-1080 (May v Shinn).

"Denied By Judges Time Limit"

5.) Question Five's Reason To Grant the Petition, As Petitioner was Denied his unequivocal request to proceed as Pro-Per, and Represent Himself so he could finally have access to all of the Denied BRADY EVIDENCE, denied all evidence, all transcripts Denied to Petitioner, Denied transcript of Police Interrogation, Denied to see Grand Jury Transcripts which had Perjured Testimony, and claims of "False Confession", Denied Petitioner to ever see the written law and charges he faced. The state appointed public defender denied All Defenses listed on his filed "Arizona NOTICE OF DEFENSES" submitted by his first private counsel, which lists Forty-One Separate defenses available to me. I was Denied Knowledge and right to them All.

The trial judge simply denied my Request To Proceed Pro-Per and Violated my 6th Amend. right, S.Ct. "Faretta v California" by telling me I had "No time to prepare or investigate, no time for any adversarial testing of Prosecution's case against me, because my State Appointed Public Defender was Ready to go to trial! (see All of these Facts on the Denied BRADY EVIDENCE, transcript of hearing on 03-03-2016) All my claims proven True.

"NO TIME BAR on the 6th Amendment Rights."

VI. "WAIVER OF RIGHT TO FILE

AN OPPOSITION BRIEF", was filed and entered into this court by Respondent's Counsel. By this, the Respondent accepted all of Petitioner's Facts as true, with No Opposition, No Need For trial or further deliberations, because Facts are Not being Challenged.

VII RELIEF REQUESTED

Petitioner prays for this honorable court to Grant a REMAND back to a lower federal court for a First and Only "EVIDENTIARY HEARING", so he may finally receive the established record, (10) Ten court and criminal transcripts that are Denied BRADY EVIDENCE, listed in Appendix

-OR- to grant a JOINDER of my pleading to be heard at the same time as case No. 20-1080 (May v Shinn) which is now Pending in this court:

See Section IV. RELATED PROCEEDINGS under Rule 14(b)(iii) As this would expedite and streamline this honorable court's valuable time.

Thank You,
Respectfully,

Roger Darryl Waldrep
April 06, 2021

"PROOF OF SERVICE"

"DECLARATION IN COMPLIANCE WITH
28 U.S.C. §1746 in; "Petition For Rehearing"

I, Roger Darryl Waldrep, do hereby swear
under penalty of perjury, that all statements are true
to best of my ability. I mailed out by Kingman
Prison Mail System on April 07, 2021, the "Petition
For Rehearing" to the following Parties;

1.) Clerk of the U.S. Supreme Court
Office of the clerk
Washington DC, 20543 -0001

2.) Eliza Ybarra - counsel for Respondent
Assistant Att. Gen. - Criminal Appeals
2005 N. Central Ave
Phx. AZ 85004 -1580

signed, Roger Waldrep

date April 07, 2021

**Received in mail on April 06, 2021 - New EVIDENCE*

- 09/08/2020 121 Filed (ECF) notice of appearance of J.D. Neilsen (Arizona Attorney General's Office, 2005 N. Central Avenue, Phoenix, AZ 85004) for Appellants Mr. Mark Brnovich and David Shinn in 17-15603. Substitution for Attorney Mr. Oramel H. Skinner, III, Esquire for Appellants Mr. Mark Brnovich and David Shinn in 17-15603. Date of service: 09/08/2020. (Party was previously proceeding with counsel.) [11816467] [17-15603, 17-15704] (Nielsen, Jim) [Entered: 09/08/2020 04:09 PM]
- 09/08/2020 122 Attorney Oramel H. Skinner III substituted by Attorney Jim Nielsen in 17-15603 and 17-15704. [11816493] [17-15603, 17-15704] (HH) [Entered: 09/08/2020 04:15 PM]
- 09/08/2020 123 Filed (ECF) notice of appearance of J.D. Nielsen (Arizona Attorney General's Office, 2005 N. Central Avenue, Phoenix, AZ 85004) for Appellees Mr. Mark Brnovich and David Shinn in 17-15704. Substitution for Attorney Mr. Oramel H. Skinner, III, Esquire for Appellees Mr. Mark Brnovich and David Shinn in 17-15704. Date of service: 09/08/2020. (Party was previously proceeding with counsel.) [11816503] [17-15704, 17-15603] (Nielsen, Jim) [Entered: 09/08/2020 04:17 PM]
- 09/09/2020 124 Filed order (SANDRA S. IKUTA, MICHELLE T. FRIEDLAND and FREDERIC BLOCK): The Motion to Stay the Mandate (ECF No. [120]) is GRANTED. Pursuant to Rule 41(d) of the Federal Rules of Appellate Procedure, the mandate is stayed for 150 days to permit Petitioner-Appellee to file a petition for writ of certiorari in the Supreme Court. Should the Supreme Court grant certiorari, the mandate will be stayed pending disposition of the case. Should the Supreme Court deny certiorari, the mandate will issue immediately. The parties shall advise this Court immediately upon the Supreme Court's decision. [11817658] [17-15603, 17-15704] (AF) [Entered: 09/09/2020 01:28 PM]
- 10/05/2020 125 Filed letter from pro se re: "appendix to PFR/EB". Served on 10/06/2020. Deficiency: party has counsel, PFR denied. FYI PANEL only [11849980] [17-15603, 17-15704] (CW) [Entered: 10/06/2020 05:54 PM]
- 02/01/2021 126 MANDATE ISSUED.(SSI, MTF and FB) [11987797] [17-15603, 17-15704] (RL) [Entered: 02/01/2021 10:54 AM]
- 02/01/2021 127 Filed (ECF) Appellee Stephen Edward May in 17-15603, Appellant Stephen Edward May in 17-15704 EMERGENCY Motion to recall the mandate, Motion to stay the mandate. Date of service: 02/01/2021. [11988144] [17-15603, 17-15704] -[COURT UPDATE: No action necessary; mandate issued in error; mandate has been recalled. 2/1/2021 by TYL] (Dubno, Erica) [Entered: 02/01/2021 01:14 PM]
- 02/01/2021 128 Filed clerk order (Deputy Clerk: RL): The mandate issued on 02/01/2021 is recalled as issued in error. [11988517] [17-15603, 17-15704] (RL) [Entered: 02/01/2021 02:52 PM]
- 02/01/2021 129 Filed (ECF) Appellee Stephen Edward May in 17-15603, Appellant Stephen Edward May in 17-15704 Correspondence: TIMELY NOTICE THAT THE PETITION FOR CERTIORARI WAS TIMELY FILED PURSUANT TO FRAP 41(d)(2)(B)(ii); DECLARATION OF ERICA T. DUBNO, ESQ.. Date of service: 02/01/2021 [11988573] [17-15603, 17-15704] (Dubno, Erica) [Entered: 02/01/2021 03:06 PM]
- 02/10/2021 130 **Supreme Court Case Info**
Case number: 20-1080
Filed on: 01/29/2021
Cert Petition Action 1: Pending
[11999777] [17-15603, 17-15704] (RR) [Entered: 02/10/2021 03:28 PM]

PACER Service Center			
Transaction Receipt			
U.S. Court of Appeals for the 9th Circuit - 03/13/2021 12:00:09			
PACER Login:	WRD_guyask	Client Code:	
Description:	Case Summary	Search Criteria:	17-15704
Billable Pages:	1	Cost:	0.10

5.ct No. 20-1080

"Intervening Circumstances by this Pending Case No. 20-1080 - directly effects Substantially and Controlling Effect on Waldrep v Shinn (No. 20-6751)"

If you view the **Full Docket** you will be charged for 13 Pages \$1.30

General Docket
United States Court of Appeals for the Ninth Circuit

Court of Appeals Docket #: 17-15704
Nature of Suit: 3530 Habeas Corpus
Stephen May v. David Shinn, et al
Appeal From: U.S. District Court for Arizona, Phoenix
Fee Status: Paid

Docketed: 04/12/2017
Termed: 03/27/2020

Case Type Information:

- 1) prisoner
- 2) state
- 3) 2254 habeas corpus

Originating Court Information:

District: 0970-2 : 2:14-cv-00409-NVW
Trial Judge: Neil V. Wake, District Judge
Date Filed: 02/28/2014

Date Order/Judgment:
03/28/2017

Date Order/Judgment EOD:
03/28/2017

Date NOA Filed:
04/11/2017

Date Rec'd COA:
04/11/2017

CERTIFICATE

April 06, 2021

"Certificate of A Party Unrepresented By Counsel"

I, Roger Darryl Waldrep, a pro-se
petitioner, hereby submit that this

"Petition For Rehearing" is presented
in Good Faith and Not for delay,
and is stating that the Grounds are limited
to Intervening circumstances of substantial
or controlling effect OR to other substantial
grounds Not previously presented.

signed, Roger Waldrep

date, April 06, 2021

As Intervening Circumstances of Substantial
or Controlling effect is the Fact of Newly
Discovered Evidence, case precedent and
The Pending Supreme Court case No. 20-1080
entered on 02/10/2021 (see Attached Docket Sheet)
that will have Controlling Effect on petitioners Case
under EQUAL PROTECTIONS UNDER THE CONSTITUTION.

As I am a Pro-Se Petitioner, the Federal Court
will Liberally Construe my Filings, as I have
been denied Appointment of Counsel by Fed. courts.