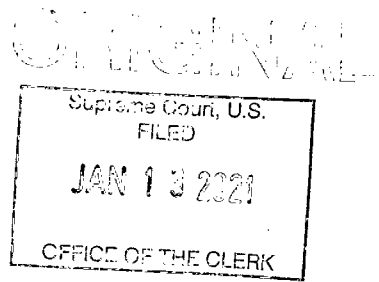


No. _____

20-7022



IN THE

SUPREME COURT OF THE UNITED STATES

Amado Reyes Trujillo — PETITIONER
(Your Name)

vs.

U.S. DIST. COURT For The — RESPONDENT(S)
NORTHERN DIST. OF CALIF.

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

Amado Reyes Trujillo
(Your Name)

P.O. Box 3100
(Address)

Chino, Ca. 91708
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

- Whether the District Court Erred when Denied Petitioner writ of habeas Corpus, due to lack of procedures, without considering that Petitioner is not a Lawyer, and had limited time to learn the law, when he is not an English speaker?
- whether the District Court fail to take in consideration the new issues presented in Petitioner's writ of habeas Corpus?
- whether the United States District Court Erred when it Denied Petitioner's A Certificate of Appealability?

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:

RELATED CASES

Slack v. McDANIEL, 529 U.S. 473
Lambright v. STEWART, 220 F.3d 1022, 1026 (9th cir. 2000)
Petrocelli v. Angelone, 248 F.3d 877 (9th cir. 2001)
Franklin v. Hightower, 215 F.3d 1196, 1199 (11th cir. 2000)

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OTHER

AEDPA

FED. Rule § 2254 (d)(1)

CALIF. PENAL CODE 667.71; 667.61 (a)

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☐ is unpublished.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 _____ 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☐ is unpublished.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 E 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 OCT, 29, 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 Aug. 14, 2019.
A copy of that decision appears at Appendix C.

☐ 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

- The right of STATE prisoner To seek federal habeas corpus relief is guaranteed in 28 USC § 2254. The standard for relief under "AEDPA" is set forth in 28 USC § 2254(d)(1)
- When a state or federal court decision is contrary to controlling supreme court law, a federal habeas is unconstrained by § 2254(d)(1) specially when the error was made by state court in violation of constitutional law.
- Petitioner's Fifth, Sixth and Eighth Amendment were violated by state and federal court

STATEMENT OF THE CASE

On April 25, 2002, the SANTA CLARA COUNTY DISTRICT ATTORNEY, filed a Two-COUNT information AGAINST PETITIONER Amado Reyes Trujillo.

Each COUNT charged him with Commission of a lewd ACT BETWEEN April 1, 2001 AND OCTOBER 1, 2001. IN VIOLATION OF PENAL CODE SECTION 288(a) (CT 82-83). Each COUNT added AN ALLEGATION THAT PETITIONER had a prior § 288(a) CONVICTION IN VIOLATION OF § 667.5, 667.71, AS WELL AS § 667.61 (a) AND (d). (CT 82084). PETITIONER PLEAD NOT GUILTY. (CT 87).

OPENING STATEMENTS BEGAN ON JANUARY 7, 2003. (CT 172.) DELIBERATION BEGAN ON THE AFTERNOON OF JANUARY 14, 2003, ON WHICH THE JURY DELIBERATED ALL DAY (CT 244.) THE NEXT DAY, THE JURY FOUND PETITIONER GUILTY ON COUNT ONE, BUT NOT GUILTY ON COUNT TWO. (CT 251.)

THE TRIAL COURT SENTENCED MR. TRUJILLO ON MAY 30, 2003. THE COURT IMPOSED A 50 YEARS-TO-LIFE, TWO STRIKES SENTENCE ON THE COUNT ONE CHARGED. (CT 303.) MR. TRUJILLO FILED A NOTICE OF APPEAL. (CT 310.)

ON July 30, 2017, PETITIONER SUMMITTED A PETITION FOR WRIT OF HABEAS CORPUS INTO THE SIXTH DISTRICT COURT OF APPEALS FOR THE STATE OF CALIFORNIA.

THE COURT DENIED THE PETITION WITH-OUT PREJUDICE, TO REILING IN THE SANTA CLARA COUNTY SUPERIOR COURT IN THE FIRST INSTANCE.

ON May 19, 2017, PETITIONER PRESENTED A PETITION OF WRIT OF HABEAS CORPUS (MC 275.) INTO THE SANTA CLARA SUPERIOR COURT, SAN JOSE COUNTY, CALIFORNIA. ARGUMENTING THAT, (1) THE TRIAL COURT ABUSED ITS DISCRETION BY ALLOWING THE PROSECUTION TO INTRODUCE CIRCUMSTANTIAL EVIDENCE TO COUNTERATTACK THE CREDIBILITY OF THE POTENTIAL DEFENSE WITNESS. (2) THE TRIAL COURT ERRONEOUSLY SENTENCE PETITIONER TO FIFTY-YEARS-TO-LIFE IN PRISON.

ON July 03, 2017, THE SUPERIOR COURT FILED AN ORDER DENYING PETITIONER'S PETITION FOR WRIT OF HABEAS CORPUS.

ON July 30, 2017, PETITIONER PRESENTED HIS PETITION FOR WRIT OF HABEAS CORPUS INTO THE SIXTH DISTRICT COURT OF APPEALS. ON AUGUST 17, 2017, THE SIXTH DISTRICT COURT OF APPEALS DENIED PETITIONER'S PETITION WITH-OUT PREJUDICE TO REILING IN THE SUPERIOR COURT IN THE FIRST INSTANCE, AGAIN

THE SUPERIOR COURT DENIED PETITIONER'S PETITION ON NOVEMBER 30, 2017, AGAIN.

ON JANUARY 1, 2018, PETITIONER RETURN TO THE SIXTH DISTRICT COURT OF APPEALS TO PRESENT, AGAIN, HIS PETITION FOR A WRIT OF HABEAS CORPUS, DUE TO THE NEGATIVE RESPONSE FROM THE SUPERIOR COURT OF OF SANTA CLARA.

THE APPEAL COURT DENIED PETITIONER'S PETITION ON MARCH 14, 2018.

DUE TO THE LACK OF FUNDS AND, OR KNOWLEDGE OF THE LEGAL PROCEDURE, PETITIONER DID NOT FILED IN THE CALIFORNIA SUPREME COURT, ACCORDING TO HIS KNOWLEDGE, UNTIL MAY 23, 2019.

THE CALIFORNIA SUPREME COURT DENIED HIS WRIT OF HABEAS CORPUS ON AUGUST 14, 2019 (CASE NUMBER S255950) (SEE EXHIBIT B)

REASONS FOR GRANTING THE PETITION

The following issues were presented in this case to the courts below this court:

- The Trial Court erroneously sentenced petitioner to fifty years to life in prison, violating petitioner's constitutional right against cruel and unusual punishment, as guaranteed by the 8th Amendment to the United States Constitution.
- The Trial Court abused its discretion by allowing the prosecution to introduce circumstantial evidence to counter-attack the credibility of potential defense witness. Violating petitioner's right to due process, equal protection and confrontation clause guaranteed by the United States Constitution.
- The Trial Court abused its discretion by refuse to order prosecution to provide petitioner with prosecution records and discovery issues. Violating petitioner's due process, as stated in the state and federal constitution fifth Amendment.
- The Trial Court violated petitioner's right to a fair trial and to present defense, protected under the sixth Amendment, when the Judge removed the counsel who had planned a defense, and replace with a counsel with not knowledge of the case.

Here the District Court misconstrued Petitioner's claims and ruled on the procedural components of the claim, denying a certificate of appealability too. In *Slack v. McDaniel*, 529 U.S. 473 this Supreme Court explained that determining whether a certificate of appealability should issue where a habeas corpus petition has been dismissed on procedural grounds has to components. One, directed at the underlying constitutional claim and the other one directed at the District Court's procedural holdings Id at 485.

The legal argument here is whether, reasonable jurists could differ as to whether the District Court properly dismissed all four claims in the first amended petition on the basis that Petitioner claim was procedural defaulted.

This Court stated that Prisoner Petitioners are often unlearned on the law... since they act so of often as their own counsel in a habeas corpus proceedings, we can not impose on them the same high standards of the legal art, which we might place on the legal professionals... (ii)

Here Petitioner has been trying at his best, but the limitations are so tremendous that is physical impossible to follow every single law and rule while we learn how to file a habeas corpus.

The District Court erred when imposed upon petitioner those high standards.

McLeskey v. Zant, 499 U.S. 467, 111 S.Ct. 1454 (1997)

CONCLUSION

BASED ON THE FOREGOING, THIS COURT SHOULD GRANT THE PETITION FOR WRIT OF CERTIORARI AND ORDER A FULL BRIEFING.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Amado Trujillo

Date: JAN. 12, 2021