

20-8135
No. _____

IN THE

Supreme Court, U.S.
FILED

MAY 17 2021

OFFICE OF THE CLERK

GREGG McNAMARA — PETITIONER
(Your Name)

vs.

ATTORNEY GENERAL OF CALIFORNIA — RESPONDENT(S)

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

Gregg McNamara

(Your Name)

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Medford, Oregon 97501

(City, State, Zip Code)

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(Phone Number)

QUESTION(S) PRESENTED

- 1) Under the Sixth Amendment right to know the nature and the cause of the action against a person, can a person convicted while suffering from severe mental impairment invoke that right based on the fact that he was incapable of knowing?
- 2) Does the above-described action also violate said persons Fifth Amendment right to due process, especially if the party was coerced into giving a false guilty plea?

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:

1. California Office of the Attorney General.

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TABLE OF AUTHORITIES CITED

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STATUTES AND RULES

OTHER

9th Circuit Website statement on mootness.

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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 is unpublished.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 B 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 is unpublished.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 C 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 is unpublished.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 Los Angeles County Superior 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.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was March4, 2021.

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 3/21/2018. 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

5th Amendment of the U.S. Constitution

6th Amendment of the U.S. Constitution

14th Amendment of the U.S. Constitution

211 p.c. of the California State Penal Code

STATEMENT OF THE CASE

Mental illness can prevent a person from being able to exercise their granted Constitutional Rights under the 5th Amendment, such as a right to due process, and the 6th Amendment such as the right to know the nature and the cause of the action against them. The 14th Amendment makes these violations correctable by the United States Court System.

The alleged crime in question for which petition were erroneously convicted in spite of said innocence occurred when he was 24 and lived in a board & care home, a halfway house for persons who had resided for a period of time in psychiatric hospitals, a situation that the petitioner had been in since he was 16.

Legal rights for such a person's right to know the nature and the cause of the actions against him under the 6th Amendment is discussed in *Dusky v. United States*, 362 U.S. 402 (1960) where because of mental health issues he had been found by this court to not have been competent to stand trial. It was held that the defendant must understand the charges against him and be able to aid in his own defense.

The right to due process under the 5th Amendment is discussed later in another case when the court would rule in *Droe v. Missouri*, 420 U.S. 162 (1975). That a person's right to due process had been violated because they had not been capable of aiding in their own defense.

Petitioner comes before this court with the status of being a convicted felon, facing all the horrific disabilities that go with the status, though innocent of said crime.

Due to mental incapacitation, naivety and fear, petitioner was forced to plea guilty to Los Angeles Superior Court Case No. A341999 which consisted of a charge under 211 p.c. robbery in the California State Penal Code.

The crime was alleged to have occurred on or about February 23, 1978. The arrest occurred on or about June 17, 1978 and the guilty plea was forced upon me on September 28, 1978.

Petitioner resided in what at the time was the Starlight Board & Care Home, 11825 Ventura Blvd. in Studio City. A couple of predatory heroin addicts (Christin M. Scara and Richard Baltiskonis) would come and sponge off the residents of said board & care home feeling residents were easy prey, due to mental health issues. This is how these people knew who I was.

According to the arrest report, on or about February 23, 1978 they were picked up for said crime by police. They claimed they were innocent and decided to blame it on one of the mentally ill persons from the board & care home, me. For some reason the police went along with this (confidential informants?). I was arrested for said crime almost four months later.

Being mentally defenseless, I was forced to take a guilty plea in spite of my innocence, a little over three months later.

REASONS FOR GRANTING THE PETITION

In the legal system of the United States, a matter is moot if further legal proceedings with regard to it can have no effect, or events have placed it beyond the reach of the law. Thereby the matter has been deprived of practical significance or rendered purely academic.

The 7th Circuit states that mootness occurs when a decision can no longer benefit the appellant, *Flynn v. Sandahl*, 58 F.3d 283, 287 (7th Cir. 1995), quoting *Church of Scientology v. United States*, 113 S. Ct.447, 450 (1992) (*emphasis in original*)

Living under the horrific disabilities as a convicted felon in spite of my innocence due to my mental incapacity at the time of said incident, I would certainly benefit from a grant of Certiorari and removal of this conviction.

The 9th Circuit claims that mootness occurs if a case controversy as not begun or has already ended. <https://www.ca9.uscourts.gov/content/glossary.php>

These are opposing ways of looking at the same matter.

In today's climate of persons with mental health issues, the most vulnerable of adults, the mentally must be protected from predatory policing agencies, lawyers and courts looking for any fall guy that's available.

Society as a whole would benefit from guarding the rights of those unable to defend themselves.

The following decision from the 9th Circuit would then imply that the court saw no controversy in my treatment or in the alternative that it has ended.

Filed order (WILLIAM C. CANBY and LAWRENCE VANDYKE) The request for a certificate of appealability is denied because appellant has not shown that "jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.

For the protection of society as a whole we must see the controversy in this finding. It certainly has not ended for me.

How many other victims of these people are out there?

When a court finds a case is moot it ousts itself from jurisdiction. This case being considered moot would be a contradiction of the very reasons for having higher and inferior courts. Only this court is left to decide, and hopefully grant relief.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Gregg McNamara

Date: May 14, 2021