

No. 20-8298 &

20A173

IN THE SUPREME COURT OF THE UNITED STATES OF AMERICA.

HENRY FREDERICK RAMEY, JR.,
Petitioner,

(CSC No. S268712)
(COA No. 4th Civ. E076944)
(SBSC No. CIVSB 2101966)
(SBSC No. LLTVA 2000547)

v.

APPELLATE DIVISION OF
SUPERIOR COURT OF THE
STATE OF CALIFORNIA, IN
AND FOR THE COUNTY OF
SAN BERNARDINO, HECTOR
PENA GOMEZ,

Respondents.

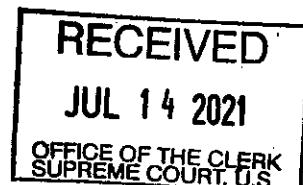
SUPPLEMENTAL BRIEF.

ON PETITION FOR WRIT OF CERTIORARI TO THE CALIFORNIA
COURT OF APPEAL, FOURTH APPELLATE DISTRICT, DIVISION TWO.

RENEWED APPLICATION FOR STAY PRESENTED TO THE HONORABLE
NEIL M. GORSUCH, NEXT JUNIOR JUSTICE.

HENRY FREDERICK RAMEY, JR.
24784 5th St.
San Bernardino, CA., 92410
TEL.: (909) 678-9348
hanksanberdoo@aol.com
Petitioner in Pro Se.

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QUESTION PRSENTED FOR REVIEW.

Did the California Court of Appeal, Fourth Appellate District, Division Two, err in an of issue of nationwide importance, and now in conflict with the Ninth Circuit, and refused to grant a Writ of Mandamus, despite the fact that the Trial Court was proceeding to Trial in an Unlawful Detainer Case despite an Eviction Moratorium issued by the Centers of Disease Control?

CORPORATE DISCLOSURE STATEMENT.

None of the Parties is a corporate entity or even a Limited Liability Company.

ARGUMENT.

INTRODUCTION.

Petitioner is a victim of injustice. Despite being an issue of law, on July 7, 2021, counsel for Respondent Pena Gomez, Michael C. Earle, lied to both Court and Jury at Petitioner's Jury Trial in *Pena Gomez v. Ramey*, San Bernardino Superior Court Case No. LLTVA 2000547 that the CDC Eviction Moratorium does not apply to Petitioner's case when it damn well applies in his case. He should be disciplined like Rudolph W. Giuliani. See *In re Giuliani* (New York 1 App. Div. 2021) <https://s3.documentcloud.org/documents/20971841/matter-of-giuliani.pdf>, and *In re Giuliani* (D. C. Ct. of App. 2021) <https://www.democracydocket.com/wp-content/uploads/sites/45/2021/07/Order-Sua-Sponte-Staying-Appeal.pdf>. his Court upheld the Moratorium in *Alabama Ass'n of Realtors v. Dept. of Health & Human Services*, https://www.supremecourt.gov/opinions/20pdf/20a169_4f15.pdf (2021), by a 5-4 vote. Petitioner has a new case upholding pandemic restrictions by the Ninth Circuit, and the Court, as well as the Hon. Justice Gorsuch should consider before granting Certiorari, or at least a Stay.

I. THE CALIFORNIA COURT OF APPEAL LACKS JURISDICTION IN A CASE INVOLVING NATIONAL IMPORTANCE, AND NOW IN CONFLICT WITH THE NINTH CIRCUIT, IN THAT THE UNLAWFUL DETAINER COMPLAINT IS BARRED BY THE SERVICE OF THE CDC DECLARATION TEMPORARILY BARRING EVICTIONS.

Petitioner Henry Frederick Ramey, Jr., served his CDC Declaration on Real Party in Interest on October 9 and 12, and November 24, 2020. The purpose of the CDC Declaration is to bar Unlawful Detainer Actions until, now, July 31, 2021. No Unlawful Detainer Action should have been commenced after the Declaration after it was served on Real Party in Interest. Accordingly, ***NOBODY IN THE CALIFORNIA COURTS WAS LISTENING NOT EVEN THE TRIAL JUDGE WHO REPEATED JURY INSTRUCTIONS AND MADE REFERENCE TO AN UNRELATED LLC.*** Now,

fortunately, there is a Circuit Court Opinion ruling on the constitutionality of at least pandemic restrictions.

Petitioner had a Jury Trial between July 6-7, 2021, where the Jury had ruled against him. However, the Judgment was not entered yet. A Hearing on the Status of the Judgment is on July 20, 2021, at 8:30 a. m., in Department S17 of the San Bernardino Superior Court. No Writ of Possession has been issued yet.

Petitioner sought review as to Case No. LLTVA 2000547, Because the Centers for Disease Control originally issued its Eviction Moratorium on September 4, 2020, which is now set to expire on July 31, 2021.

Yet, Real Party in Interest continued to prosecute the Unlawful Detainer Action, which is a misdemeanor under Federal Law on the basis of seeking the February 2020 rent that was paid on March 8, 2021, as part of Petitioner's then Chapter 13 Bankruptcy Plan, and which Petitioner already paid the previous owner Irina Hernandez \$450 on April 2, 2020, pursuant to her Three Day Notice to Pay Rent or Quit. Because of the CDC Eviction Moratorium, the Superior Court lacks all jurisdiction to proceed in Case No. LLTVA 2000547 on date.

The new case of *Slidewaters LLC v. Washington State Dept. of Labor and Industries*, <https://cdn.ca9.uscourts.gov/datastore/opinions/2021/07/08/20-35634.pdf>, at pp. 17-18, 19 (9th Cir. 2021), explains that:

“There is a legitimate state interest in preventing the spread of COVID-19, a deadly contagious disease. This has been recognized by the U.S. Supreme Court. *See Roman Cath. Diocese of Brooklyn*, 141 S. Ct. at 67 (‘Stemming the spread of COVID-19 is unquestionably a compelling interest . . .’). The question is whether Defendants’ actions are rationally related to this interest.

“States are given ‘great leeway in adopting summary procedures to protect public health and safety.’ *Mackey v. Montrym*, 443 U.S. 1, 17 (1979). That is true ‘even in the absence of an emergency in the usual sense.’ *Sinaloa Lake Owners Ass’n v. City of Simi Valley*, 882 F.2d 1398, 1406 (9th Cir. 1989) (quoting *Mackey*), overruled on other grounds by *Armendariz v. Penman*, 75 F.3d 1311 (9th Cir. 1996) (en banc). In an emergency, the leeway is even greater. See *id.* (‘[G]overnment officials

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need to act promptly and decisively when they perceive an emergency.’ (citation omitted)).

“Defendants created a state-wide plan. Among other things, the plan attempts to differentiate activities based on how essential they are. For example, grocery stores are deemed more essential than recreational businesses and are subject to less severe capacity restrictions. See Office of the Governor, Healthy Washington Roadmap to Recovery 3 (May 18, 2021), <https://www.governor.wa.gov/sites/default/files/HealthyWashington.pdf> (last visited June 29, 2021). The plan also groups different types of activities and treats them by category rather than requiring the state to conduct an assessment of each and every individual business or property. Particularly in dealing with an emergency that calls for prompt action, it is not irrational for Defendants to take this approach. The state is not required to draw a perfect line in determining which individual businesses can safely open and which cannot. *Cf. Vance v. Bradley*, 440 U.S. 93, 108–09 (1979) (under rational-basis review, classifications that are under- or over-inclusive do not create constitutional violations).

“...

“In large part, Slidewaters’ objection to its treatment under the proclamations and rules amounts simply to a disagreement with the judgment of Defendants. Slidewaters is confident, as it states in its opening brief, that it ‘could and can operate safely.’ But government regulation does not constitute a violation of constitutional substantive due process rights simply because the businesses or persons to whom the regulation is applied do not agree with the regulation or its application. Defendants provide a rational basis for the proclamations and related rules. The substantive due process rights of Slidewaters, its owners, and its employees are not violated by Defendants’ actions.”

Here, Respondents lacked all authority to hear this Unlawful Detainer Action, because the Centers for Disease Control, now headed by Dr. Rochelle P. Walensky, M. D., M. Ph. Has already made the determination that there should be no eviction cases heard during the pandemic. What was applied to Slidewaters, LLC, must be applied to Respondent Pena Gomez, and ***ALL CALIFORNIA COURTS!***

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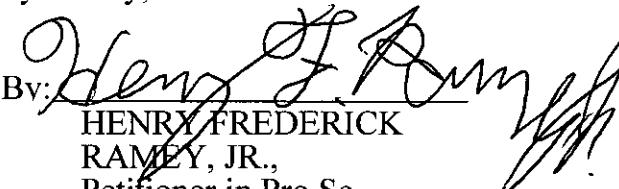
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CONCLUSION.

Petitioner hereby requests that this Court reverse the Order Denying the Petition for Writ of Mandamus filed on April 22, 2021, and thereafter require the Appellate Division of the Superior Court to in turn issue a Writ of Mandamus instructing the Trial Court to dismiss *Hector Pena Gomez v. Henry Frederick Ramey, Jr.*, San Bernardino Superior Court Case No. LLTVA 2000547, and restrain the issuance of any Judgment or Writ of Possession therein.

Dated this 9th day of July, 2021

By: 
HENRY FREDERICK
RAMEY, JR.,
Petitioner in Pro Se.