

No. **21-6470**

In The Supreme Court of the United States

ORIGINAL

MICHAEL GEORGE KOGIANES, M.D.;
CECIL T. KINKADE, AND SUCH
OTHER SIMILARLY SITUATED INDIVIDUALS,
PETITIONERS,

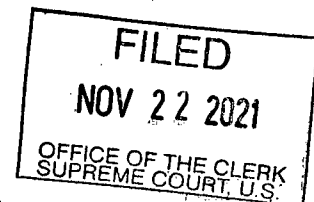
v.

JOHN MACADOREY, WARDEN,
ARIZONA STATE PRISON COMPLEX-YUMA;
MARK BRNOVICH, ATTORNEY GENERAL,
STATE OF ARIZONA,

RESPONDENTS.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI



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QUESTIONS PRESENTED

DR. MICHAEL KOGIANES, BORN 25 FEBRUARY 1932, SOON TO ACHIEVE HIS 90th BIRTHDAY, WAS A LONG TIME RESIDENT OF KINGMAN, ARIZONA, JUST SOUTH OF LAS VEGAS, WHERE HE WAS A LIFETIME PRACTICING OBSTETRICIAN/GYNECOLOGIST, RESPONSIBLE FOR DELIVERING OVER 7,000 BABIES DURING HIS ALMOST THIRTY YEARS OF PRACTICE SPANNING THREE GENERATIONS, AND IMPACTING THE LIVES OF ABOUT ONE-TENTH THE POPULATION OF HIS AREA. HIS ONLY PRIOR RECORD INVOLVES A TRAFFIC TICKET IN 1992, AS A REQUIREMENT FOR HIS CONTINUING MEDICAL COMPETENCY, HE HAD TO ATTEND A 3 MONTH PROGRAM IN TUCSON, LEAVING HIS TWO YOUNG CHILDREN, A BOY AND GIRL, AGED 7 AND 9 YEARS, RESPECTIVELY, IN THE CARE OF HIS WIFE, WHO WAS A NURSE. HE RETURNED TO FIND THAT IN HIS ABSENCE, HIS WIFE HAD TAKEN UP WITH A RATHER NOTORIOUS DRUG DEALER. HIS SHOCK AND ANGER WAS EXACERBATED IN LEARNING OF THIS FROM HIS THEN 9 YEAR OLD DAUGHTER, WHO DESCRIBED HER MOTHER'S ACTIONS TO HIM. HE CONFRONTED THE PAIR FOR THEIR RECKLESS ACTIVITIES, AND THE HARM IT WOULD CAUSE THEIR DAUGHTER. THE DRUG DEALER IN RESPONSE, LAUGHED, AND TOLD HIM TO GET LOST, OR HE "WOULD CRUSH HIM LIKE A BEER CAN," AND THAT HE "DID HIS DAUGHTER, TOO." THE DOCTOR SHOT AND KILLED HIS DAUGHTER'S RAPIST, AND IN ATTEMPTING TO INTERCEDE, HIS WIFE WAS STRUCK AND DIED AS WELL. IN DECEMBER OF 1992, DR. KOGIANES WAS CHARGED, WITH A TERM OF 25 YEARS TO ELIGIBILITY TO PAROLE. HOWEVER, EFFECTIVE 1 JANUARY 1994, THE STATE OF ARIZONA ABOLISHED PAROLE, AND ITS PAROLE BOARD WITH ITS REQUIRED MAKE-UP AND RULES, AND REPLACED IT WITH THE BOARD OF EXECUTIVE CLEMENCY. IN MAY, 2018, HIS FIRST APPEARANCE BEFORE THAT BOARD RESULTED IN A DENIAL, PURPORTEDLY BASED ON ASPECTS OF HIS CRIMINAL CASE, RATHER THAN THE STATUTORY GROUNDS FOUND IN ARS §31-412(A). IN HIS NEXT REVIEW IN 2019, A SIMILAR RESULT OCCURRED; HOWEVER BY THIS TIME, HE HAD FOUND THE MEANS TO APPEAL A DENIAL OF ADMISSION TO PAROLE BY WAY OF A TRIAL IN THE SUPERIOR COURT BEFORE A JURY ON THE TERMS SET FORTH IN ARS §31-412(A), FOR WHICH HE FILED, AND WAS ACCEPTED WITH AN ORDER FOR COMPLIANCE WITH REQUIREMENTS FOR FURTHER PROCEEDINGS BY THE SENIOR JUDGE OF THE SUPERIOR COURT. HE PROMPTLY COMPLIED. THE STATE RESPONDENTS, HOWEVER, FILED A MOTION TO TREAT THE APPEAL IN ANOTHER FORMAT, NOT EXPLICITLY SET FORTH UNDER THE NEW LAW, BUT USED IN LIMITED INSTANCES IN THE PAST. OVER HIS OPPOSITION, THE STATE PREVAILED, THIS LIKELY EXTINGUISHING ANY HOPE OF TRUE APPELLATE REVIEW BY A JURY UNDER THE NEW LAW. AS IS MORE THOROUGHLY SET FORTH HEREIN BELOW, THAT DECISION HAS BEEN PRESENTED BEFORE EACH AVAILABLE STATE FORUM INCLUDING THE SUPREME COURT, AND SINCE ON CHALLENGE TO DURATION OR CONDITIONS OF CONFINEMENT, THROUGH TO THE NINTH CIRCUIT COURT OF APPEALS. THE FOLLOWING QUESTIONS ARISE AS A RESULT OF THE FOREGOING:

- 1) DID THE STATE VIOLATE THE FEDERAL DUE PROCESS RIGHTS OF THE PETITIONER BY SHUNTING THE PROPER FORMAT ACCEPTED BY THE TRIAL COURT TO DENY A JURY TRIAL BASED ON STATUTE-BASED RULES OF COURT? [JUDICIAL REVIEW OF ADMINISTRATIVE DECISIONS, ARS §12-910, et seq.]
- 2) DID THE COURT VIOLATE THE FEDERAL DUE PROCESS AND EQUAL PROTECTION PROVISIONS OF ARTS. V AND XIV IN ACCEPTING THE DISPLACED PRIOR FORMAT, WHERE ONLY THE STATE SUPREME COURT MAY PROMULGATE RULES FOR THE INTERIOR COURTS OF THE STATE?
- 3) DID THE DISTRICT AND CIRCUIT COURTS ERR IN NOT GRANTING REVIEW UNDER THE CARES ACT TO REVIEW THE ELDERLY AND MEDICALLY VULNERABLE STATUS OF THE PETITIONER IN A COMPLEX DESIGNATED AS A FEDERAL FACILITY FOR DOZENS OF ITS INMATES IN FEDERAL/STATE CONCURRENT TERMS?

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PETITION FOR A WRIT OF CERTIORARI

MICHAEL G. KOGIANES RESPECTFULLY PETITIONS FOR A WRIT OF CERTIORARI TO REVIEW THE ORDER OF THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, ON APPEAL AND IN REHEARING OF KOGIANES et al., v. MACADOREY et al., No 21-15152 (SCHROEDER, SILVERMAN, MURGUA, CJI) [7/28/21, AND 10/21/21 RESPECTIVELY].¹

JURISDICTION

THIS PETITION IS SUBMITTED FROM THE COURT OF APPEALS DECISIONS IN CHALLENGE TO CONDITIONS AND DURATION OF CONFINEMENT RELATIVE TO VIOLATIONS OF THE GUARANTEES OF DUE PROCESS AND OF EQUAL PROTECTION PROVIDED UNDER AMENDMENTS V AND XIV, RELATIVE TO DENIALS OF PAROLE, IN ITS STRUCTURE, PROCESS, AND OBSTRUCTION OF THE MEANS OF APPEAL; AS WELL AS CHALLENGES AS PROVIDED PURSUANT TO THE CARES ACT FOR A COMPLEX DESIGNATED AS A FEDERAL FACILITY FOR ISSUES RELATED TO, AND SUFFERED FROM THE COVID-19 PANDEMIC, SUBMITTED UNDER 28 USC § 1254 (1), 28 USC § 1651 IN AID OF ITS PLenary AUTHORITY; AND AS ALL MATTERS HAVE BEEN PRESENTED TO THE ARIZONA SUPREME COURT, BOTH ON REVIEW AND IN SPECIAL ACTION, UNDER DIRECT COLLATERAL REVIEW UNDER 28 USC § 1257 (a).

OPINIONS BELOW

EACH OF THE RELEVANT OPINIONS OF THE COURTS WHICH HAVE REVIEWED THE MATTERS BELOW HAVE BEEN ENUMERATED AND INCORPORATED BY REFERENCE HEREIN AND ATTACHMENT ITEMIZED BY TRUE AND CORRECT COPIES OF EACH IN APPENDIX A. NONE ARE KNOWN TO HAVE BEEN PUBLISHED, OR OTHERWISE REFERENCED ELSEWHERE.

STATUTORY PROVISIONS INVOLVED

ARS §§ 12-901 - 914, IN PARTICULAR, § 910 (C) - JUDICIAL REVIEW OF ADMINISTRATIVE DECISIONS (J RAD)
ARS § 41-1092.01 APPEALABLE AGENCY ACTIONS INVOKED UNDER § 12-910(C), FOR COURT REVIEW
ARS § 31-401 BOARD OF EXECUTIVE CLEMENCY, STRUCTURE AND QUALIFICATIONS OF MEMBERS
ARS § 31-412 CRITERIA FOR RELEASE ON PAROLE, FOLLOWING LAWS 1993, CH. 255, § 67, eff. 1/1/94
EACH OF THESE STATUTES ARE PROVIDED IN TRUE AND CORRECT COPIES THEREOF, IN APPENDIX C.

STATEMENT OF THE CASE

THE MOST RECENT PROCEEDINGS IN BOTH THE STATE, ADMINISTRATIVELY AND IN ITS COURTS; AS WELL AS THE FEDERAL PRESENTATIONS, HAVE BEEN LIMITED TO THOSE ISSUES REGARDING ELIGIBILITY FOR, AND ADMISSION TO PAROLE; ALONG WITH ITS APPEAL OF THE DENIAL RENDERED.

HOWEVER, IN THE FULLNESS OF THIS REVIEW, IN WHAT IS LIKELY THE LAST CHAPTER IN THE LIFE OF THE PETITIONER, IT APPEARS THAT FROM THE UNCONTROVERTED SEQUENCE OF EVENTS WHICH OCCURRED 9 DECEMBER 1992, THAT THEY DEVOLVED FROM AN EXTREMELY HEATED CONFRONTATION, AND THE HEAT OF PASSION RESULTING FROM THE ADEQUATE PROVOCATION OF THE PRIMARY VICTIM; AND THE RECKLESSLY CAUSED DEATH OF HIS WIFE, WHICH LIKELY MAY CHANGE THE JURISDICTIONAL ASPECT OF THE CRIME ITSELF, AND THE SENTENCE IMPOSED.

IN PASSING, THE ORIGIN FILING WAS SUBSEQUENTLY CONSOLIDATED WITH THAT OF CECIL KIWKADE WHEN LEARNED THAT THEY WERE PROCEEDURALLY ALMOST IDENTICAL AS TO APPEAL OF THEIR PAROLE DENIALS, AND THEN EXPANDED TO THOSE OTHERS SIMILARLY SITUATED.

1) THE CAPTION HAS BEEN UPDATED FROM THE NOTICE OF APPEAL ONWARD DUE TO THE UNTIMELY PASSING OF FORMER WARDEN EDWIN JENSEN FOLLOWING HIS BATTLE WITH COVID, 12/14/20 [FRCP 25(d); FRAP 43(c)].

CECIL T. KINKADE AND MARK KLEIN HAVE SINCE BEEN ADMITTED TO PAROLE ON THEIR NEXT FOLLOWING APPEARANCE BEFORE THE BOARD OF EXECUTIVE CLEMENCY, BUT SURPRISINGLY, THE PETITIONER WAS NOT WHEN HAVING LAST APPEARED IN JULY, 2021, ALTHOUGH ARGUABLY, HIS CIRCUMSTANCES WERE LESS EGREGIOUS THAN EITHER OF THE OTHERS.

FIRST KOGIANES, AND THEN KINKADE, EACH APPEALED THE DENIAL OF THEIR PAROLES UNDER JRAD, THE JUDICIAL REVIEW OF ADMINISTRATIVE DECISIONS ACT, AND ITS MIRRORED SET OF PROCEDURAL RULES OF COURT PROMULGATED BY THE STATE SUPREME COURT, IN 2019.

THE SENIOR JUDGE OF THE MARICOPA COUNTY SUPERIOR COURT RECEIVED BOTH, AND IN TURN, ISSUED VIRTUALLY IDENTICAL MINUTE ENTRY ORDERS IN ACKNOWLEDGMENT OF THEIR PROPERTY, AND ACCEPTANCE FOR FURTHER PROCEEDINGS, ORDERING BOTH APPELLANTS TO RETURN CERTAIN FILING REQUIREMENTS, AND CONVERSELY, FOR THE STATE APPELLEES TO DO LIKEWISE.

BOTH APPELLANTS COMPLIED EXPEDITIOUSLY, BUT INSTEAD, THE ASSIGNED ASSISTANT ATTORNEY GENERAL MOVED TO TREAT THE JRAD APPEAL, WHICH AFFORDS TRIAL DE NOVO BEFORE A JURY, AS A SPECIAL ACTION, WHICH OCCURS WITHOUT ORAL ARGUMENT, REMOVED IN WRITING ONLY, BEFORE THE COURT ASSEMBLY. THE NOTION CITED EXCLUSIVELY FROM AUTHORITIES GENERATED BETWEEN 1970 AND 1987, BEFORE THE AMENDMENTS TO JRAD, OR THE ABOLITION OF THE PAROLE BOARD, THIS RENDERING ITS ARGUMENT LARGELY INAPPROPRIATE.

THE COURT HOWEVER, OVERLOOKED THE WELL-BRIEFED OPPOSITION RAISED, AND FOLLOWED THE FORMAT PREFERRED BY AND MORE ADVANTAGEOUS TO THE STATE; AND BOTH LEVELS OF STATE APPELLATE COURTS ACQUIESCED IN LINE WITH THE SUPERIOR COURT, AS DID THE FEDERAL COURTS.

YET THERE SEEMS THAT A PLAINTIFF, OR OTHER NAMED PROponent PARTY, RETAINS THE RIGHT TO REMAIN THE MASTER OF HIS PRESENTATIONS, WITHIN THE TIMING, FORMAT, AND FORM OF WHICH HE CHOOSES TO MOUNT HIS PRESS FOR GRIEVANCES, WITHIN THE FULLNESS OF THE PROVISIONS OF AMENDMENTS I AND VII, AND MUST NOT BE SUBJECT TO GOVERNMENT WITHH.

MOREOVER, THE REPLACEMENT STATUTORY BASIS FOR PAROLE TO BE HEARD BEFORE THE ARIZONA BOARD OF EXECUTIVE CLEMENCY REQUIRES, AT ARS § 31-401(B), THAT NO MORE THAN TWO MEMBERS OF THE BOARD MAY BE FROM "[I]F THE SAME PROFESSIONAL DISCIPLINE," WHERE HERE, ALL FIVE ARE FORMER POLICE OFFICERS.

THEIR HEARINGS ALMOST ALWAYS FOCUS ON REHASHING THE PARTICULARS OF THEIR CRIMINAL TRIALS, WHERE ARS § 31-412(A) IS WRITTEN IN THE PRESUMPTIVE OF GRANTING RELEASE, WITH THE MANDATE THAT THE BOARD:

"SHALL AUTHORIZE THE RELEASE OF THE APPLICANT ON PAROLE IF THE APPLICANT HAS REACHED THE APPLICANT'S EARLIEST PAROLE ELIGIBILITY DATE PURSUANT TO ARS § 41-1604.09 SUBSECTION D, AND IT APPEARS TO THE BOARD, IN ITS SOLE DISCRETION, THAT THERE IS A SUBSTANTIAL PROBABILITY THAT THE APPLICANT WILL REMAIN AT LIBERTY WITHOUT VIOLATING THE LAW AND THAT THE RELEASE IS IN THE BEST INTERESTS OF THE STATE." (emph. added).

THESE ARE THE ONLY REQUIREMENTS; AND ANY RUMINATIONS ON THE TRIAL EVENTS ESSENTIALLY CONSTITUTE DOUBLE JEOPARDY, WITH THE EFFECT OF MAKING ALL SUCH SIMILARLY SITUATED INDIVIDUALS, NUMBERING SOME 248 ACCORDING TO AN ARTICLE IN THE "ARIZONA REARLIC," WITH EFFECTIVELY NATURAL LIFE SENTENCES.

FINALLY, DURING THESE PROCEEDINGS, THE YUMA COMPLEX HAS BECOME ONE OF THE MOST CONCENTRATED COVID-19 HOTSPOTS, LIKELY DUE TO ITS LOCATION AT THE SOUTHWESTERN MOST TIP OF ARIZONA, SURROUNDED BOTH 4 MILES TO THE WEST, AND 1.5 MILES TO THE SOUTH BY MEXICO, ALONG ONE OF THE MOST ACTIVE ILLEGAL IMMIGRANT CROSSING POINTS ALONG THE SOUTHERN BORDER.

THE PETITIONER HAD BEEN SUFFERING FROM VARIOUS CARDIOVASCULAR CONDITIONS, AND HAS THREE TIMES BEEN EMERGENCY TRANSPORTED TO THE YUMA MEDICAL CENTER. UPON RETURN, HE WAS HELD IN ISOLATION CUSTODY PER POLICY, AND WHILE THERE, CONTRACTED COVID. HE REMAINS A BOUT WITH IT FOR SOME MONTHS, AND IT HAS LEFT HIM VISIBLY WEAKENED. MOST RECENTLY, HIS ANGINA AND RELATED CARDIOVASCULAR INFIRMITIES HAVE WORSENED, MANIFESTED IN FREQUENT EPISODES OF BLEEDING, AND DETERIORATION OF BLOOD IRON CONTENT AND CLOTTING PROFILES. SEE, APPENDIX D, RECENT BLOOD LAB RESULTS.

REASONS FOR GRANTING THE PETITION

1. THE STATE VIOLATED THE FEDERAL DUE PROCESS RIGHTS OF THE PETITIONER BY SHUNTING THE PREFERRED AND PROPER STATUTORY MEANS FOR APPEAL OF DENIAL OF PAROLE, ACCEPTED BY THE COURT, AND COERCING CHANGE TO AN OBSOLETE AND INEFFECTIVE ALTERNATIVE.

THE ARIZONA BOARD OF EXECUTIVE CLEMENCY IS AN ADMINISTRATIVE BOARD OF THE STATE, TO BE TERMED HEREINAFTER "ABEC". ADMINISTRATIVE BOARD CONTROVERSIES ARE SUBJECT TO RESOLUTION UNDER THE JUDICIAL REVIEW OF ADMINISTRATIVE DECISIONS (JRAD) LAW, ARS § 12-901-914. THE LAW PROVIDES FOR SUCH RESOLUTIONS BEFORE AN ADMINISTRATIVE HEARING BOARD, EXCEPT FOR THOSE ENUMERATED BOARDS EXEMPT FROM THAT FORMAL UNDER ARS § 41-1092.02, WHICH EXPRESSLY ENUMERATES "A... (1) THE STATE DEPARTMENT OF CORRECTIONS"; AND (2) THE BOARD OF EXECUTIVE CLEMENCY," THUS PROVIDING UNDER ARS § 12-910(1) FOR SUCH CONTROVERSIES TO BE ADJUDICATED BEFORE THE SUPERIOR COURT IN THE PRESENCE OF A JURY, UPON DEMAND, WITH TRIAL DE NOVO THEREAFTER. SEE, STATUTES, APPENDIX C, LAWS 2018, CH. 331, § 2, EFF. 1/1/19.

AN APPEAL OF DENIAL OF PAROLE WAS MADE BY KOGIANES AND KINKADE, AND ACCEPTED BY THE HON. DOUGLAS GERLACH, SENIOR JUDGE, MARICOPA COUNTY SUPERIOR COURT. RATHER THAN COMPLYING WITH THE ORDER OF THE COURT OF 7/1/19 (KOGIANES) AND ON 8/13/19 (KINKADE), THE STATE APPELERS ELECTED TO MOVE TO TREAT THE JRAD AS A SPECIAL ACTION, CITING DECISIONS OUT OF DATE AUTHORITIES WHICH NO LONGER REFLECTED CURRENT LAW. MTA, 8/15/19.

THE STATE THEREBY FAILED TO RESPOND AS ORDERED, AND SHOULD BE DEEMED NONCULPANT, IF NOT CONTEMPTUOUS, AND PRECLUDED FROM FURTHER PARTICIPATION, WHICH AS A RESULT, PRECLOSURES ANY SUB SEQUITE INPUT BY THE COURT, AS A RESULT OF CONFESSION OF ERROR. SEE, STATE V. BULITA, 158 ARIZ. 121, 124, 761 P.2D 1025, 1028 (AZ.S. Ct. 1988) (en banc).

- II. THE SUPERIOR COURT VIOLATED DUE PROCESS AND EQUAL PROTECTION FEDERAL RIGHTS IN ITS UNAUTHORIZED ACCEPTANCE AND IMPLEMENTATION OF STATE'S MOTION TO TREAT AS SPECIAL ACTION, WHERE ONLY THE STATE SUPREME COURT MAY PROMULGATE RULES.

A SECOND LAYER OF FEDERAL CONSTITUTIONAL VIOLATIONS OCCURRED WHEN THE COURT SWITCHED FROM ITS PROPER ACCEPTANCE OF JRAD TO THE MUCH LESS EFFECTIVE AND APPLICABLE SPECIAL ACTION ROUTE, BARRED BY ITS OWN PROVISION TO NOT BE AVAILABLE WHERE REMEDY THROUGH APPEAL IS. RULES PROC. FOR SPEC. ACT., RULE 1.

THIS VIOLATES ANOTHER EN BANC HOLDING OF THE STATE SUPREME COURT FOUND IN STATE V. BALLINGER 209 ARIZ. 1, 2, 916, 97 P.3D 101, 102, 916 (AZ.S. Ct. 2004) (en banc); ALSO, SEE, PREISER V. RODRIGUEZ, 411 US 475, 499 (1973); LYNCE V. NATHS, 519 US 433, 446-47 (1997), AS TO HABEAS APPLICABILITY IN ADMINISTRATIVE PAROLE REVIEW; EX PIST FACTO EFFECT, RESPECTIVELY.

III. AS YUMA HAS BEEN DESIGNATED A FEDERAL FACILITY BY SEVERAL DISTRICT COURTS AND BY THE UNITED STATES BUREAU OF PRISONS, HOUSING AT ANY GIVEN TIME A SIGNIFICANT NUMBER OF THOSE IN CONCURRENT STATE/FEDERAL CUSTODY, IT SHOULD BE SUBJECT TO THE PROVISIONS OF THE CARES ACT (PUB. L. NO. 116-136) AND ITS SEVERAL STATUTORY COMPONENTS, MAKING AVAILABLE RELIEF FOR AN ELDERLY AND MEDICALLY VULNERABLE INMATE.

WHERE A LIBERTY ISSUE IS CONCERNED, THE DUE PROCESS AND EQUAL PROTECTION PROVISIONS OF A SUBJECT CLASS OF INDIVIDUALS, SUCH AS THOSE IN RESIDENCE WITH COMMON FACILITIES, SERVICES, PROVISIONS, AND REGULATIONS, MUST BE ABLE TO DRAW ON THE GUARANTEES OF AMENDMENTS V AND XIV, ESPECIALLY IN SECURING PROTECTIONS AVAILABLE THROUGH AMENDMENT VIII.

THUS, IT WOULD REQUIRE PARSING AT A LUDICROUSLY MICROSCOPIC LEVEL TO DISTINGUISH STATE FROM FEDERAL INMATES WHERE HOUSED, FED, SHOWERED, CLOTHED AND CRAMPED TOGETHER IN SPACES IMPOSSIBLE TO SOCIALLY DISTANCE WITHIN. WHEN SUCH ENVIRONMENT INCLUDES THOSE SUCH AS THIS PETITIONER WHO IS BOTH ELDERLY (OVER 65 YEARS) AND MEDICALLY VULNERABLE (CHRONIC CARDIOVASCULAR INFIRMITIES), WHICH PRESENT CO-MORBIDITIES OF 20% AND 13.2% EACH, RESPECTIVELY, FOR A COMBINED PROBABILITY OF MORTAL DANGER APPROACHING 40% IF EXPOSED TO COVID-19. INDEED, THIS PETITIONER WAS SO EXPOSED AND INFECTED OVER A YEAR AGO, AND HAS BEEN DEMONSTRABLY WEAKENED AND IMPAIRED.

ANOTHER SUCH BREAK-THROUGH INFECTION MAY PROVE FATAL, IF NOT ENLARGED TO ADEQUATE CONFINEMENT, OR OTHERWISE RELEASED ON RECOGNIZANCE. THAT AS HIS 90TH YEAR APPROACHES, HE MIGHT FOR A MOMENT BREATHE FRESH AIR AGAIN. HE POSES ABSOLUTELY NO THREAT TO ANYONE. SEE, FARMER V. BERNAN, 511 US 825, 832, 837, 847 (1994); ALSO MARTINEZ-BROOKS V. EASTER & CARVAJAL, INCLUDED IN 9TH CIRCUIT GEN-DOCKET, UNDER FRAP 32.1(b), NO CV 20-00569 (MPS) (D.C.T., 5/12/20).

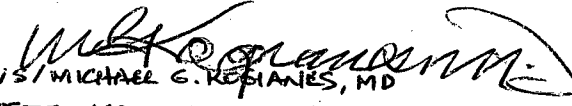
IV. SUMMARY (S.C.R. 10 QUALIFICATIONS)

THE ABOVE QUESTIONS PRESENT (1) INSTANCES OF CONFLICTS IN THE COURTS OF APPEALS; (2) CONFLICTS BETWEEN THE HOLDINGS OF THE ARIZONA SUPREME COURT IN APPLICATION OF FEDERAL QUESTIONS; AND (3) BOTH THE STATE SUPREME COURT AND NINTH CIRCUIT HAVE ENTERED AREAS THAT SHOULD BE SETTLED HERE.

CONCLUSION

FOR THE FOREGOING REASONS, PETITIONER RESPECTFULLY REQUESTS THAT THE PETITION FOR A WRIT OF CERTIORARI BE GRANTED.

RESPECTFULLY SUBMITTED THIS 22ND DAY OF NOVEMBER, 2021


IS/MICHAEL G. REPIANES, MD
PETITIONER PRO SE