

No. 21-7606

FILED

MAR 11 2022

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

**ORIGINAL**

IN THE  
SUPREME COURT OF THE UNITED STATES

MICHAEL LADONTE SCOTT — PETITIONER  
(Your Name)

vs.

ROBERT W. FOX — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. COURT OF APPEALS FOR THE NINTH CIRCUIT  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

MICHAEL LADONTE SCOTT  
(Your Name)

P.O. BOX 8457  
(Address)

LANCASTER, CA 93539  
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1. PETITIONER WAS PROVIDED IAC UNDER STRICKLAND V. WASHINGTON (1984) 466 U.S. 668, BY HIS COUNSEL'S INCOMPETENT ADVICE TO PLEAD NO CONTEST TO TIME-BARRED COUNTS.

## 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:

There is no parent or publicly held company that owns 10% or more of the corporation's stock.

## RELATED CASES

- Michael Ladonte Scott v. Daniel Paramo, NO. 17HC00352,  
SACRAMENTO COUNTY SUPERIOR COURT. Judgment entered Oct. 19, 2017.
- Michael Ladonte Scott v. Sexton, Warden, NO. C085891,  
THIRD DISTRICT COURT OF APPEAL. Judgment Nov. 21, 2017.  
5246406
- Michael Ladonte Scott v. Debbie Asuncion, NO. 54606,  
SUPREME COURT OF CALIFORNIA. Judgment entered Apr. 11, 2018.
- Scott v. Fox, NO. 2018-CV-02687-TLN-KJN,  
U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF CALI. Judgment entered  
Aug. 18, 2020
- Michael Ladonte Scott v. Fox, NO. 20-16739,  
U.S. COURT OF APPEALS FOR THE NINTH CIRCUIT. Judgment entered  
Nov. 16, 21

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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☒ is unpublished.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☒ is unpublished.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 \_\_\_\_\_ 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 November 16, 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: December 13, 2021, and a copy of the order denying rehearing appears at Appendix C.

☐ 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 \_\_\_\_\_.  
A copy of that decision appears at Appendix \_\_\_\_\_.

☐ 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

STRICKLAND V. WASHINGTON (1984) 466 U.S. 668, 687

THE UNITED STATES SUPREME COURT STATED THAT "A CONVICTED DEFENDANT'S CLAIM THAT HIS COUNSEL'S ASSISTANCE WAS SO DEFECTIVE AS TO REQUIRE REVERSAL OF A CONVICTION (1). MUST SHOW THAT COUNSEL'S PERFORMANCE WAS DEFICIENT AND, (2). MUST SHOW "THAT THE DEFICIENT PERFORMANCE PREJUDICED THE DEFENSE."

# STATEMENT OF THE FACTS

1. ON OR ABOUT TUESDAY, NOVEMBER 30, 2010, AT the request of Petitioner's Counsel (ONE Amy Rogers), Petitioner's Trial date was TRAILED TO THE VERY LAST day Permitted For Petitioner TO HAVE STOOD TRIAL BY WITHOUT Petitioner's right TO A Speedy Trial Being impaired, WHICH WAS MONDAY the SIXTH (of December), But ON December 6, 2010, Petitioner's right TO A Speedy Trial WAS impaired ANYWAY BECAUSE the SAID Amy Rogers made the conscious Decision TO NOT Subject the Prosecution's CASE TO A "MEANINGFUL ADVERSARIAL TESTING" DURING this Proceeding, WHEN ~~she~~ <sup>ROGERS</sup> Deliberately Neglected Her Duty TO APPEAR AND BE Personally Present INSIDE The courtroom DURING This Proceeding ON Petitioner's BEHALF. ~~THE~~ The SAID Amy Rogers' TOTAL ABSENCE From The courtroom DURING This CRITICAL STAGE OF THE PROCEEDINGS (Against Petitioner) amounted TO A Complete DENIAL of Counsel AND WAS A Constitutional error THAT WAS Sufficiently egregious AND Prejudicial TO Petitioner's Defense <sup>BECAUSE BOTH</sup> ~~BECAUSE~~ Petitioner AND the SAID Amy Rogers' Absences From the courtroom during this Scheduled Trial date Afforded Neither of the TWO AN opportunity TO OBJECT TO The State Prosecutor Carlton Davis' Arbitrary request TO CONTINUE Petitioner's Trial DATE Beyond (December 6, 2010), The last day For Petitioner's Trial TO <sup>HAVE BEGUN</sup> ~~Begin~~ AND/OR TO Demand or request A Dismissal of the CASE Against Petitioner ON Speedy Trial Grounds UNDER California Penal Code Section 1382. (See APPENDIX D, THE FURTHER PROCEEDINGS TRANSCRIPT).
2. ON OR ABOUT TUESDAY, JANUARY 17, 2012, Well After petitioner Had Already gotten violated OF His right TO Enjoy A Speedy Trial WITHOUT DUE PROCESS, The SAID Amy Rogers Further Provided IAC BY Advising Petitioner TO Plead NO CONTEST TO All of The Trumped up charges Against Him Although All of the CHARGES Against Him, At this Point, were officially Time-Barred. (See APPENDIX E, [THE CHANGE OF PLEA TRANSCRIPT])



# REASONS FOR GRANTING THE PETITION

TO ESTABLISH A CONSTITUTIONAL VIOLATION BASED ON IAC, A PETITIONER MUST SHOW (1). THAT COUNSEL'S REPRESENTATION FELL BELOW AN OBJECTIVE STANDARD OF REASONABLENESS, AND (2). THAT COUNSEL'S DEFICIENT PERFORMANCE PREJUDICED THE DEFENSE.

STRICKLAND V. WASHINGTON, 466 U.S. 668, 688, 692 (1984).

THE STRICKLAND STANDARD ALSO APPLIES DURING THE PLEA BARGAIN PROCESS.

"TO ESTABLISH PREJUDICE FROM IAC DURING THE PLEA BARGAIN PROCESS, PETITIONER MUST DEMONSTRATE THAT, BUT FOR COUNSEL'S ERRORS, THE OUTCOME OF THE PROCESS WOULD HAVE BEEN DIFFERENT."

(SEE HILL V. LOCKHART, 474 U.S. 52, 59 (1985)).

FIRST, PETITIONER'S COUNSEL'S FAILURE TO REQUEST A DISMISSAL OF THE CASE AGAINST PETITIONER UNDER CALIFORNIA PENAL CODE SECTION 1382 AFTER PETITIONER HAD GOTTEN VIOLATED OF HIS CONSTITUTIONAL RIGHT TO A SPEEDY TRIAL WAS UNACCOUNTABLE UNDER THE CIRCUMSTANCES AND CANNOT BE CONSIDERED A "REASONABLY SOUND TRIAL STRATEGY" NOR A REASONABLY SOUND REPRESENTATION.

SECOND, IN PARTICULAR, PETITIONER'S COUNSEL ADVISING PETITIONER TO PLEAD NO CONTEST TO ALL OF THE TRUMPED UP CHARGES ~~AGAINST~~ <sup>PETITIONER</sup> THAT WERE OFFICIALLY TIME-BARRED, WAS AN INCOMPETENT DECISION, AND CANNOT BE JUSTIFIED BY ANY CONSIDERATION IN RELATION TO THE PLEA AGREEMENT BECAUSE PETITIONER'S "PREJUDICE" IS THAT HE PLEADED NO CONTEST TO MULTIPLE TIME-BARRED COUNTS THAT COULD'VE AND WOULD HAVE BEEN DISMISSED ON SPEEDY TRIAL GROUNDS UNDER CALIFORNIA PENAL CODE SECTION 1382 IF PETITIONER'S COUNSEL (THE SAID AMY ROGERS) HAD PERFORMED COMPETENTLY AND <sup>HAD</sup> ADVISED PETITIONER OF THIS PRIOR TO ENTERING INTO THE PLEA AGREEMENT.

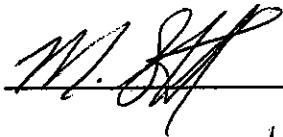
THEREFORE, PETITIONER'S COUNSEL WAS INEFFECTIVE UNDER STRICKLAND, AND PETITIONER'S SIXTH AMENDMENT RIGHT TO COUNSEL WAS THEREFORE IMPAIRED.

(5)

**CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

  
\_\_\_\_\_

Date: 3-<sup>16</sup>~~15~~-2022