No. 22-385

IN THE SUPREME COURT OF THE UNITED STATES

Roger Towers, petitioner
v.
Mike Hamasaki, respondent

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

PETITION FOR WRIT OF CERTIORARI

Roger Towers
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QUESTIONS

1. *In light of CAED district judge's admission that they are "wholly unable to handle civil matters and the district court's order assigning this case to district judge "NONE"; was the referral to a magistrate lawful?*

2. *In light of the district judge's ruling claiming that summary judgment is unavailable on habeas; and who has otherwise failed to follow clearly established law; should this Court invoke its supervisory authority to prevent a systemic abuse of discretion and/or complete miscarriage of justice?*

3. *Is California Code of Civil Procedure §527.8, a statute which fails to include any useful standards to the situations which it applies, void for vagueness?*

CORPORATE DISCLOSURE STATEMENT

Petitioners do not own more than ten percent of any publicly held corporation.

PROCEEDINGS AT ISSUE

Petition for Writ of Habeas Corpus
Towers v. Hamasaki
Ninth Circ. Case No. 21-16236

Date of Reconsideration Order declining certificate: May 24, 2022, A18, *infra*.

CAED Case No. 1:20-cv-00411-DAD-HBK,
Towers v. Superior Court, County of Stanislaus

In addition, the background facts are directly related to a complaint for declaratory relief (9th Circ. Case #18-16712, Towers v. County of San Joaquin) and a complaint for damages (9th Circ. Case #19-16684 (Towers v. Myles). Legal issues related Article III jurisdiction are common. The time for direct appeal on these other cases has expired, but the validity of these judgements will be requested to be set aside. A petition for writ of mandate is expected to be filed within two weeks of the filing of this Petition.

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The case is captioned: *Roger David Towers v. Mike Hamasaki*, Case No. 21-16236.

JURISDICTION

Jurisdiction of this Court is pursuant to the all writs act (28 U.S.C. §1651) and/or direct appeal pursuant 28 U.S.C. 2101 (c).

CONSTITUTION, STATUTES AND RULES

UNITED STATES CONSTITUTION

Article III, Section 1:
The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behaviour, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

First Amendment:
Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

CALIFORNIA CODE OF CIVIL PROC. §916

(a) Except as provided in Sections 917.1 to 917.9, inclusive, and in Section 116.810, the perfecting of an appeal stays proceedings in the trial court upon the judgment or order appealed from or upon the matters embraced therein or affected thereby, including enforcement of the judgment or order, but the trial court may proceed upon any other matter embraced in the action and not affected by the judgment or order.

(b) When there is a stay of proceedings other than the enforcement of the judgment, the trial court shall have jurisdiction of proceedings related to the enforcement of the judgment as well as any other matter embraced in the action and not affected by the judgment or order appealed from.

EASTERN DIST. OF CALIFORNIA LOCAL RULES

L.R. 144(c) - **Initial Ex Parte Extension.** The Court may, in its discretion, grant an initial extension ex parte upon the affidavit of counsel that a stipulation extending time cannot reasonably be obtained, explaining the reasons why such a stipulation cannot be obtained and the reasons why the extension is necessary. Except for one such initial extension, ex parte applications for extension of time are not ordinarily granted.

L.R. 260 (b) – **Opposition** (Summary Judgment)

Any party opposing a motion for summary judgment or summary adjudication shall reproduce the itemized facts in the Statement of Undisputed Facts and admit those facts that are undisputed and deny those that are disputed, including with each denial a citation to the particular portions of any pleading, affidavit, deposition, interrogatory answer, admission, or other document relied upon in support

of that denial. The opposing party may also file a concise "Statement of Disputed Facts," and the source thereof in the record, of all additional material facts as to which there is a genuine issue precluding summary judgment or adjudication. The opposing party shall be responsible for the filing of all evidentiary documents cited in the opposing papers. See L.R. 133(j). If a need for discovery is asserted as a basis for denial of the motion, the party opposing the motion shall provide a specification of the particular facts on which discovery is to be had or the issues on which discovery is necessary.

L.R. 302 (Fed. R. Civ. P. 72) - **DUTIES TO BE PERFORMED BY MAGISTRATE JUDGES**

(a) General. It is the intent of this Rule that Magistrate Judges perform all duties permitted by 28 U.S.C. § 636(a), (b)(1)(A), or other law where the standard of review of the Magistrate Judge's decision is clearly erroneous or contrary to law. Specific duties are enumerated in (b) and (c); however, those described duties are not to be considered a limitation of this general grant.

(b) Criminal...

(c) **Duties to Be Performed in Civil Matters by a Magistrate Judge Pursuant to 28 U.S.C. § 636(a), (b)(1)(A), (b)(1)(B), (b)(3), or Other Law.**

(17) Actions brought by a person in custody who is seeking habeas corpus relief (28 U.S.C. § 2241 et seq.), or any relief authorized by 42 U.S.C. § 1981 et seq., Bivens or the Federal Tort Claims Act including dispositive and non-dispositive motions and matters;

STATEMENT OF CASE

1. Introduction

In May 2020, CAED District Judge Dale A. Drozd amended his standing orders to stop planning for civil trials because scheduling would be "purely illusory and merely add to the court's administrative burden of vacating and resetting dates for trials that will not take place in any event." He further ordered that "NONE" be used to replace district judge initials in case numbers. His Order recounts the exodus of CAED judges, refusal of Senior status, and refers to a June 2018 plea of the judges in which they are "wholly unable to handle civil matters". (A1, *infra.*) It is axiomatic that "total Control" of the referral cannot be accomplished when there is no district judge. Abdication of Article III authority results in a void judgment. (See Sections 6 and 7.)

On the merits, no crime is involved here. I was arrested and prosecuted for possession of a firearm in violation of a restraining order. I was under no obligation to surrender my Second Amendment rights pursuant to an invalid order automatically stayed pending appeal. (Section 3). Also specific to California law, invalid injunctive orders can be challenged at the time of enforcement. The dispositive facts are uncontested. The law is clearly established. But my challenge was not allowed.

Additionally, California's civil restraining order statutes are unconstitutionally vague. After the California Supreme Court declared the State's criminal threat statute void for vagueness, the California legislature adopted similarly vague civil statutes. In this manner, California residents are deprived of their Second Amendment rights because they cannot afford legal counsel. This deprivation of protected rights must be stopped. (Section 4)

2. Petition must be granted - State failed to meet its burden on summary judgment.

It is admitted that I never threatened anyone; and the order was sought in response to my speech criticizing public officials at a planning commission hearing and the filing of a 2016 federal action.[1] Because there was no "true threat";[2] and because the my rights in due process were trammeled, the restraining order was issued in violation of the 1st and 14th Amendments.

The due process violations are briefly stated as follows.[3]

I was not allowed subpoena witnesses without waiving venue,[4] but a right to call witnesses is a fundamental right of due process. *Washington v. Texas*, 388 U.S. 14, 19 (1967); *Chambers v. Mississippi*, 410 U.S. 284, 294–95 (1973).

The right to discovery was denied,[5] but "the [California] Civil Discovery Act applies to 'every civil action and special proceeding of a civil nature.' (*Leake v. Superior Court* (2001) 87 Cal.App.4th 675, 682..." *Bouton v. USAA Cas. Ins. Co.*, 167 Cal. App. 4th 412, 427 (2008).

The trial court had no discretion to deny my request for a continuance. Cal. Code of Civil Procedure §527.8(o) provides: "The respondent shall be entitled, as a matter of course, to one continuance,

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[1] SUF #'s 14,15,16 (dkt#19-1, pp. 8-9)

[2] " 'True threats' encompass those statements where the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence ..." *Virginia v. Black*, 538 U.S. 343, 359 (2003).

[3] See supporting brief for further detail, dkt#19, pp. 7-14.

[4] SUF#9-11, dkt#19-1 pp.6-7.

[5] SUF#10, dkt#19-1.

for a reasonable period, to respond to the petition."[6] Denied opportunity to prepare for trial with counsel, the continuance was clearly prejudicial.

The trial was also tainted by false testimony and the refusal of the trial court to allow hearsay evidence under the relaxed rules applicable to the proceeding.[7]

The State failed to dispute my SUF; did not admit facts as required by Local Rule 260 (b); and, refused to specify what facts or issues could be discovered as required by Local Rule 260 (b) and FRCP Rule 56 (d).

Instead, the State requested dismissal based on findings and recommendations of CAED magistrates claiming habeas summary judgment motions "are unnecessary" (dkt#21,p.2:6). *This Court* holds that I am "entitled to judgment as a matter of law... 'The standard [for granting summary judgment] mirrors the standard for a directed verdict under Federal Rule of Civil Procedure 50(a)' . . . *Anderson* v. *Liberty Lobby, Inc., ante,* at 250." *Celotex Corp. v. Catrett,* 477 U.S. 317, 323 (1986).[8]

3. There was no crime and no reason to believe a crime had been committed.

The appeal of the restraining order had been pending with the CAL-3DCA for two months. On April 6, 2017 police agents from the California Department of Justice came to my house and banged on the door as if to bust it down. (SUF#25, dkt#19-1, p.12) Upon admitting a registered handgun was in my house, I was arrested and jailed. Handcuffed

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[6] SUF#10 and *Ross v. Figueroa,* 139 Cal. App. 4th 856, 864–66 (2006).

[7] SUF#'s 17, 19, 21.

[8] See Section 4 (below) for cases in context of California law.

behind my back, I suffered a substantial rotator cuff injury. I was then prosecuted and convicted of possession of a firearm and ammunition in violation of the restraining order (misdemeanors). (SUF#30)

There was no crime and no reason to believe a crime had been committed. In California, "an appeal stays proceedings in the trial court upon the judgment or order appealed from..., including enforcement of the judgment or order. . . ." (Cal. Code of Civ. Proc. § 916, subd. (a), *infra*, viii.) (See: *Varian Medical Systems, Inc. v. Delfino*, 35 Cal.4th 180, 189 (Cal. 2005) citing *Elsea v. Saberi*, 4 Cal. App.4th 625, 629 (Cal. Ct. App. 1992) - "The trial court's power to enforce, vacate or modify an appealed judgment or order is suspended while the appeal is pending."

"[I]f the commitment be against law, as being made by one who had no jurisdiction of the cause, or for a matter for which by law no man ought to be punished, the court are to discharge." Bac. Abr., Hab. Corp., B. 10." *Ex Parte Siebold*, 100 U.S. 371, 376 (1879). "There can be no room for doubt that such a circumstance inherently results in a complete miscarriage of justice." *Davis v. United States*, 417 U.S. 333, 346 (1974). [citation/marks omitted]

4. Statute is void for vagueness.

At issue is a threat statute, California Code of Civil Procedure (C.C.P.) §527.8, stating, at sub-paragraph (a):

> Any employer, whose employee has suffered unlawful violence or a credible threat of violence from any individual, that can reasonably be construed to be carried out or to have been carried out at the workplace, may seek a temporary restraining order and an

> order after hearing on behalf of the employee and, at the discretion of the court, any number of other employees at the workplace, and, if appropriate, other employees at other workplaces of the employer.

The definition of a "credible threat of violence is stated in sub-paragraph (b)(2):

> "Credible threat of violence" is a knowing and willful statement or course of conduct that would place a reasonable person in fear for his or her safety, or the safety of his or her immediate family, and that serves no legitimate purpose.

This so called "credible threat of violence" was invoked by the trial court in sustaining a relevancy objection relative to my testimony at the September 29th, 2016 Planning Commission meeting, the trial judge stated (ECF19-2, Ev. V.1, p.273:22):

> It's not what you were saying, sir, that they are alleging is threatening. It's how you were saying it. Okay. It's your demeanor that they are alleging was threatening. They are not alleging that what you were talking about was threatening.

Judge Mewhinney granted the County Counsel's fraudulent Petition, on the basis that these witnesses felt threatened by my "demeanor", and thus posed a "credible threat of violence". (ECF 19-3, Ev. V.2, p.335:5-15) Speech and the associated emotion are inseparable elements. *Texas v. Johnson*, 491 U.S. 397, 407 (1989).

As authoritatively construed by the California Courts, "if there is evidence that the elements of a petition under section 527.8 have been satisfied, the

speech is not constitutionally protected." (Opinion, ECF 19-3, Ev. V.2, p.354 quoting *City of San Jose v. Garbett*, 190 Cal.App.4th 526, 537 (2010). *Garbett* failed/refused to be bound by this Court's 2005 definition of a "true threat" in *Virginia v. Black*. Instead, *Garbett* (at 539) substitutes a contrary definition supplied by *In re Steven S.*, 25 Cal. App.4th 598, 607 (Cal. Ct. of App. 1994).

Garbett, like the CAL-3DCA Opinion, diminishes the broad scope of the First Amendment and dismisses the explicit *mens rea* requirement for "true threats". *Id.*, 538. The element of "intent" cannot be avoided by attaching a civil label. *United States v. Kelner*, 534 F.2d 1020, 1027 (2d Cir. 1976). In context of public debate see: *New York Times Co. v. Sullivan*, 376 U.S. 254, 270-71 (1964); *Garrison v. State of La.*, 379 U.S. 64, 73 (1964); *Snyder v. Phelps*, 562 U.S. 443, 458 (2011).

Garbett, at 537, ignores the duty of independent review in 1st Amendment cases. The CAL-3DCA refused to independently review the evidence (ECF19-3, p.12). See *In re George T*, 33 Cal.4th 620, 632 (2004) quoting *Bose Corp. v. Consumers Union*, 466 U.S. 485 (1984) at 510 – independent review is "a rule of federal constitutional law". As such, the CAL-3DCA denied my right to appellate review provided by California law.

California's restraining order statutes are facially void for vagueness because vagueness doctrine requires "legislatures to set reasonably clear guidelines for law enforcement officials and triers of fact in order to prevent "arbitrary and discriminatory enforcement." *Smith v. Goguen*, 415 U.S. 566, 573 (1974); *Grayned v. City of Rockford*, 408 U.S. 104, 108 (1972)- same. "[A] statute must be carefully drawn or be authoritatively construed to punish only

unprotected speech and not be susceptible of application to protected expression." *Gooding v. Wilson*, 405 U.S. 518, 521-22 (1972). "Laws must provide explicit standards for those who apply them." "A conviction under an unconstitutional law 'is not merely erroneous, but is illegal and void, and cannot be a legal cause of imprisonment.'" *Montgomery v. Louisiana*, 577 U.S. 190, 203 (2016) quoting *Siebold* at 376-377. See *People v. Mirmirani*, 30 Cal.3d 375 (Cal. 1981) - declaring California's criminal threat statute void for vagueness.

5. Unreasonable working conditions, causes district judge to abdicate authority - chaos reigns.

I filed this Petition for Habeas Corpus on March 20, 2020 in the Fresno division of the CAED.[9,10] On April 9, 2020 the Magistrate ordered the People to answer and prepare the record within 60 days. (dkt#4)[11] On May 15, District Judge Drozd issued his standing orders re-assigning the case to "NONE" (dkt#9, A1) and the arbitrary process began.

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[9] Calculation of one year limitation period (28 U.S.C. 2244(d)) appended to the CAED Petition at p.14, case #1:20-cv-00411-NONE-JDP, Dkt#1.

[10] Although I am no longer in custody of the State, this case is not moot because the conviction needs to be expunged. *Maurer v. Ind. as Members of Los Angeles Cty*, 691 F.2d 434, 437 (9th Cir. 1982). I also have §1983 claims for unlawful arrest and malicious criminal prosecution dependent upon the outcome of this Petition. *Heck v. Humphrey*, 512 U.S. 477, 487 (1994).

[11] The habeas petition was filed in the Fresno Division and is automatically referred to a magistrate pursuant to L.R. 302(c)(17) – not(c)(21) applicable to the Sacramento Division. See F&R for Magistrate's claim of jurisdiction, dkt#26 f.n.1.

On May 29, the State requested an additional 60 days to prepare the record. My opposition to this ex parte request detailed:[12] a) that the motion was not supported by an affidavit supporting the extension as required by L.R. 144(c); b) the motion was based on a false statement; c) that the relevant records had already been filed in the California Court of Appeal in electronic format; and, d) that the request was contrary to law. (i.e. - "The writ, or order to show cause ...shall be returned within three days unless for good cause additional time, not exceeding twenty days, is allowed." 28 U.S.C. §2243.

My opposition further detailed §2243 is not in conflict with the Supreme Court's Rules implementing §2254 habeas proceedings. Rule 4 allows the court to fix the time of the answer. "These provisions can be read and implemented in concert so the maximum time allowable for the return is twenty days." *In re Habeas Corpus Cases*, 216 F.R.D. 52, 54 (E.D.N.Y. 2003). The time extension was granted (dkt#16) and I moved for summary judgment (dkt#19) and filed the record that had been previously filed with the CAL-3DCA.

On August 7, 2020 the State answered the Petition (dkt#22). My response detailed that the State's argument was frivolous and based in fraud (dkt#24, pp. 8-10).[13] My response further argued that the restraining order statute is void for vagueness (dkt#24, pp.15-18).; and that the order violated the First Amendment by punishing protected speech and petitioning. At dkt#24,

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[12] Opposition Memo, dkt#14, p.2:6.

[13] An application has been directed to Justice Kagan requesting disbarment of California Deputy District Attorney Charity Whitney.

p.14:16), I quoted *Journigan v. Duffy*, 552 F.2d 283, 288 (9th Cir. 1977) as four-square precedent.[14]

In *Journigan*, a California habeas petitioner skipped direct appeal and argued that he was prosecuted under an unconstitutional statute. As here, the district court ruled that the guilty plea in state court precluded his habeas corpus petition pursuant to *Tollett v. Henderson,* 411 U.S. 258 (1973). *Journigan*, 285. Relying on *Menna v. New York*, 423 U.S. 61, 62 (1975) and *Blackledge* v. *Perry*, 417 U.S. 21, 30 (1974), *Journigan* reversed the district court because the trial court did not have the "power to invoke criminal process": i.e. – jurisdiction. *Id.*, 288-289. *Journigan* quotes *Ex parte Siebold, supra,*: "An unconstitutional law is void, and is as no law...A conviction under it is not merely erroneous, but is illegal and void, and cannot be a legal cause of imprisonment."

Despite the directive of FRCP Rule 72(a) to "promptly conduct the required proceedings when assigned"; eight months later, on April 1, 2021 Magistrate Barch-Kupta posted her F&R recommending denial of relief based on a non-existent collateral bar (dkt#26, p.7:7). The Magistrate refused to address the merits or the binding authorities. I timely filed Objections (dkt#27) together with a proposed order with findings of fact and law (dkt#28).

More than eleven months after I moved for summary judgement (dkt#19), on June 21, 2021 Judge Drozd claimed summary judgment was not available on habeas. He cited the F&R for its references to the CAED arbitrary process being implemented against pro se habeas petitioners:

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[14] Argument in reply to the State's Answer. (dkt#24, p.11-14)

"motions in habeas corpus are inappropriate in federal habeas cases. (See Doc. 26 at 5 quoting *Rizzolo v. Puentes*, No. 1:19-cv-00290-SKO (HC), 2019 WL 1229772, at 1 (E.D. Cal. Mar. 15, 2019; ..." (A9, *infra.*) He ignored the plain language of Rule 56(c) mandating summary judgment as held in *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986).

On motion to reconsider, after the time to seek a certificate of appealability had expired, Judge Drozd refused to be bound by or even mention the precedents: i.e. - *Zal v. Steppe*, 968 F.2d 924 (9th Cir. 1992) and *Journigan v. Duffy*, 552 F.2d 283 (9th Cir. 1977). *Zal*, at 927, explains that there is no collateral bar rule in California. See *People v. Gonzalez*, 12 Cal. 4th 804, 818 (1996).

Instead of following *Zal* and *Journigan*, the district court relied on an unpublished district court order from *Rouse v. Plummer*, No. C 04-0276 JF (PR) (2006) establishing aberrant process. (A10, *infra.*) "Contempts such as this strike down the supremacy of law and order and undermine the foundations of our Government. Recurrence of such acts must be prevented." *United States v. Shipp*, 214 U.S. 386, 392 (1909).

FURTHER REASONS TO GRANT PETITION

6. Total control of the referral process is a fallacy destroying Article III integrity.

"[This Court's] precedents make it clear that the constitutional requirements for the exercise of the judicial power must be met at all stages of adjudication." *Northern Pipeline Co. v. Marathon Pipe Line Co.*, 458 U.S. 50, 87 n.39 (1982) "[T]he requirement of 'the district court's total control and jurisdiction' must include the availability of meaningful judicial review of the magistrate's actual

rulings..." *Peretz v. United States,* 501 U.S. 923, 951 (1991) (dissent quoting *Northern Pipeline*).

"The Constitution assigns that job—resolution of 'the mundane as well as the glamorous, matters of common law and statute as well as constitutional law, issues of fact as well as issues of law' - to the Judiciary." *Stern v. Marshall,* 564 U.S. 462, 484-85 (2011) quoting *Northern Pipeline,* at 87 n.39. For these reasons, reference is predicated on total control and plenary review of the magistrate's F&R. *United States v. Raddatz,* 447 U.S. 667, 681-682 (1980); *Thomas v. Arn,* 474 U.S. 140, 153 (1985).

"Total control", however, is fallacy. "If it were possible for district judges to supervise all civil cases to the extent the majority contemplates, there would be no need for magistrates. *Pacemaker Diagnostic Clinic of America, Inc. v. Instromedix, Inc.*, 725 F.2d 537, 552 (9th Cir. 1984), (dissent describing three fallacies of the Magistrates Act). Time has proven the dissents correct.

This Court's decisions concerning the expanded role of the magistrate pursuant to the 1976 amendments to the Magistrates Act begin with *Raddatz, supra,* (C.J. Burger, plurality). After dismissing Raddatz's statutory argument concerning a suppression motion referred to a magistrate as an additional duty pursuant to 28 U.S.C. 636(b), the plurality determined that the referral satisfied Article III because it takes place under the ***"district court's total control and jurisdiction, ..."*** *Id.*,681 (***emph. added***). In Justice Blackmun's deciding opinion, he assumed a district judge is "waiting in the wings, fully able to correct errors... I simply do not perceive the threat to the judicial power or the independence of judicial decisionmaking that underlies Art. III." *Id.*, 686. Six years later, Justice

Blackmun joined the dissent to question whether *Raddatz* (and *Schor*) remained good law. "The critical question for Article III purposes is whether meaningful judicial review... can be accomplished." *Peretz v. United States,* 501 U.S. 923, 951-52 (1991).

In 1980, nobody was envisioning the situation where Congress would stop creating judgeships. But, "[t]he Framers understood this danger. They warned that the Legislature would inevitably seek to draw greater power into its 'impetuous vortex,' The Federalist No. 48, at 309." *Wellness Int'l Network, Ltd. v. Sharif,* 575 U.S. 655, 705 (2015) (C.J. Roberts, dissent). The district court did not and could not "totally control" the magistrate. Instead, the CAED is being forced by Congress to abdicate authority.

7. Judgment is a legal nullity.

"Because the magistrate judge acted without jurisdiction, the judgement is a nullity, ... *Aldrich v. Bowen*, 130 F.3d 1364, 1365 (9th Cir. 1997). *La Buy v. Howes Leather Co.*, 352 U.S. 249, 259-60 (1957). "Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court [on appeal] is that of announcing the fact and dismissing the cause. [citations]" *Steel Co. v. Citizens for Better Env't*, 523 U.S. 83, 94 (1998). This rule is "inflexible and without exception". *Ins. Corp. of Ireland v. Compagnie des Bauxites de Guinee*, 456 U.S. 694, 702 (1982). "A void judgment is a legal nullity..." *United Student Aid Funds v. Espinosa*, 559 U.S. 260, 270 (2010). **"[D]efects in subject-matter jurisdiction require correction..."** *U.S. v. Cotton*, 535 U.S. 625, 630 (2002). **(emph. added)**

8. Denial of COA was unlawful.

"[T]he only question is whether the applicant has shown that "jurists of reason could disagree with the district court's resolution of his constitutional claims... [*Miller–El v. Cockrell*, 537 U.S. 322, 336], at 327" *Buck v. Davis*, 137 S. Ct. 759, 773 (2017). Without elaboration, the panel stated "reasonable jurists" would not find my argument "debatable" (A17). Because *all* jurists of reason would find multiple violations of the Constitution, anarchy is prevailing. *Hutto v. Davis*, 454 U.S. 370, 375 (1982). The panel had no authority to disregard cases such as *Journigan* and *Val.* "Unless there is a higher intervening authority, those cases control." *United States v. Valencia-Mendoza*, 912 F.3d 1215, 1219 (9th Cir. 2019).

9. CONCLUSION

For these reasons, relief should be summarily granted.

Sincerely,

Roger Towers

APPENDIX OF ATTACHMENTS

A1	Order assigning case to "NONE".
A8	Order denying petition.
A13	Order denying reconsideration.
A17	Ninth Circ. Denying COA.
A18	Ninth Circ. Denying reconsideration