

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 REHEARING

**Roger Towers
2601 Surrey Ave.,
Modesto, CA 95355
209-604-8121
4towers@sbcglobal.net**

GROUND S FOR RELIEF

Pursuant to the Rules of the United States Supreme Court, Rule 44.2, Petitioner (Towers) requests rehearing on the basis of intervening circumstances, i.e. – the concurrent presentation of a Petition for Writ of Mandate in a related case.

SUMMARY of CERT PETITON

The Petition for Writ of Certiorari, #22-385, seeks relief from judgment denying my petition for a writ of habeas corpus. I was convicted of (misdemeanor) possession of a firearm in violation of a restraining order. The crux of the habeas argument is that the restraining order was unconstitutional and invalid. Pursuant to California law, unlike federal law, I was under no obligation to surrender my Second Amendment rights; and the trial court was without jurisdiction to enforce an invalid injunctive order. This law is clearly established. *Zal v. Steppe*, 968 F.2d 924, 927 (9th Cir. 1992) explaining the “collateral bar” rule; and *Journigan v. Duffy*, 552 F.2d 283, 288 (9th Cir. 1977) (identical procedural context); *People v. Gonzalez*, 12 Cal. 4th 804, 818 (1996) re-affirming California precedents.

ARGUMENT FOR REHEARING

Because the facts and law are clear, the miscarriage of justice is equally clear. I do not mean to impugn the integrity of the trial court in any way. Judge Drozd, in the Fresno Division of the Eastern District of California (CAED) was in an impossible position. He is the one remaining district court judge in the entire nation that has been most impacted by the refusal of Congress to appoint additional judgeships. The Petition for Writ of Mandate

provides the opportunity for this Court to end the judgeship crisis. Rehearing is most appropriate because this case is the “poster-child” for the ills resulting from an unfunded mandate – the duty of the courts to sit in judgment of cases without adequate staffing.

In a June 2018 plea to Congressional representatives, the CAED district judges described their decades long crisis resulting from a lack of judgeships. They admitted to being “wholly unable to handle civil matters”. Due to two vacancies in the Fresno Division, Judge Drozd was working solo in a court that should be staffed with five or six judgeships. He began assigning cases to “None”- including my habeas petition. The background of the CAED judicial crisis is thoroughly described by the judges.¹

The Petition for Writ of Mandamus seeks to fundamentally change the manner and method of allocating judgeships based on the requirements of Article III, due process and equal protection. The rate of appeal in the CAED is more than 40% higher than the average. This is not an issue limited to the CAED. On a national basis, there is a legitimate question as to whether the Seventh Amendment has become a myth. Only ½ of 1% of civil cases are reaching trial. These are some of the qualitative issues documented for purposes of mandamus.

As the highest court in the land, the Court must also consider its rulings in terms of impacts on state court decisions. Here, the California Courts have refused to be bound by state law and the

¹ The judge’s plea and Judge Drozd’s order are included in the Appendix to the Petition for Writ of Mandate at A1 and A7.

fundamental rights established by the United States Constitution. What good is a Constitution if the courts will not ensure that it is followed?

Here, it is clear the California restraining order statutes allow criticism of government to be punished. Here, the only crimes were those committed by the California Attorney General's Office. I was arrested at the direction of the Attorney General even though there was no reason to believe a crime had been committed. (Cert. Petition at 3.) The Deputy Attorney General fabricated evidence from whole cloth. (Cert. Petition at 5.) This is not America. This is not the Republic envisioned by the Founders. This is a tyrannical police state and this is why the people of this nation are so angry.

This Court must take affirmative steps to regain its independence so that the nation may survive. Let this Petition, together with the mandate petition, be the first step.

Respectfully,

/S/ _____
Roger Towers

Jan. 4, 2023
Date

CERTIFICATE OF GOOD FAITH

This Petition for Rehearing is presented in good faith and limited to the grounds of intervening circumstances and a matter not previously presented (i.e. – the impact on state courts and attorneys general) as required by Rule 44.2. This Petition is further based on credible evidence and could not possibly delay the proper administration of justice.

/S/ _____

Roger Towers

Jan. 4, 2023

Date