

SEP 16 2022

OFFICE OF THE CLERK

No. 22-5669IN THE
SUPREME COURT OF THE UNITED STATESRobert Caffaso Gamez — PETITIONER
(Your Name)

VS.

Arizona — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Arizona Court of Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Mr. Robert Caffaso Gamez 131401
(Your Name)ASPC Equan-SMU
(Address)P.O. Box 4000 Phoenix, AZ 85062
(City, State, Zip Code)(Phone Number)ORIGINAL

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:

RELATED CASES

1. State v. Gamez, CR-2003-1552 Arizona Superior Court for Pima County Judgment entered 14 July 21
2. State v. Gamez 2CA-CK-2021-50071 Court of Appeals for State of Arizona DIV-TWO Judgment entered 1 Dec 21
3. State v. Gamez, CR-21-0394-PRJ Arizona Supreme Court Judgment entered 14 July 22

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Arizona Supreme Court PIMA County 14 July 21

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CASES

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STATUTES AND RULES

1. ~~Alaska Rules of Criminal Procedure 32.1~~

OTHER

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 _____ 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[] is unpublished.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 _____ 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[] is unpublished.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 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[] is unpublished.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 Alaska Superior Court / App. Court 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[] is unpublished.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

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: _____, 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. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was JUNE 22. A copy of that decision appears at Appendix C.

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

1. U.S. Const. Sixth and Fourteenth Amend. Procedural
Due Process, Equal Protection Clause: Substantive
Due Process; Right to Effective Trial Counsel

STATEMENT OF THE CASE

(Gomez) alleges that trial Counsel, Direct Appeals / Trial-Posture-Collateral-Proceeding Counsel were ineffective for failing to provide legal Representation through EA The entire Criminal Judicial proceedings in violation of (GOMEZ) Rights under the Sixth and the Fourteenth Amendment Due Process Clause.

As a Matter of State law A Constitutional claim failing under Rule 32.1(A) may be raised in a successive petition under Rule 32.2 (A)(3) and it is not subject to preclusion under Rule 32.2 (A)(2) if it is of "Sufficient Constitutional Magnitude" Ariz. R. Crim. P 32.2 (A)(3) (2000); Smith 46 P.3d at 10710.

(GOMEZ) further alleges his Ineffective Assistance of Counsel (IAC) claim is not precluded under 32.2 (A)(1) because the Arizona Supreme Court has not held that A derivative (IAC) claim related to the failure to raise a Rule 32.2 (A)(3) claim is precluded in successive (PCL) proceedings.

IN fact, the Arizona Supreme Court has recently clarified that the Rule of preclusion does not apply when a petitioner claims a violation of A Constitutional right that can only be waived, knowingly, voluntarily and personally by the defendant. Ariz. R. Crim. P 32.2 (A)(3) (2020). If the Rule of preclusion does not apply to a claim of "Sufficient Constitutional Magnitude" it follows that derivative (IAC)

REASONS FOR GRANTING THE PETITION

As a [Non Plea Defendant] Arizona defendants are not entitled to [Effective Assistance of] PCR counsel if (Ames) pleads to the indictment and was denied effective assistance of trial Counsel and (Ames' Lawyer) Counsel and was denied an effective procedural recourse to challenge the validity.

In *Halbert v. Michigan* 545 U.S. 605 (2005), the Supreme Court ruled that the Due Process and Equal Protection Clause require the appointment of Counsel for defendants convicted on their pleas, who seek access to First-Tier review in the Michigan Court of Appeals.

When the State of Arizona deliberately chose to move trial ineffectiveness claims outside of the direct Appeals process where Counsel is Constitutionally guaranteed if significantly diminished (Ames') ability to file a ineffective assistance of trial Counsel claim and related claims. Persons in (Ames') position are apparently ill equipped to represent themselves, because they do not have at their disposal Counsel of an opinion of the Court addressing their claim of error. *Halbert v. Michigan* 545 U.S. 605 (2005)

For the foregoing reasons, (Ames) moves this Court to grant relief, as available.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Date: 30 Apr 22

MR. Roberto Casasanto (Attala # 13140)

ASPC-LGMN-5WJ

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