

22-5941  
No. \_\_\_\_\_

ORIGINAL

Supreme Court, U.S.  
FILED

OCT 11 2022

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

ALBERT LEON WATSON — PETITIONER  
(Your Name)

vs.

STU SHERMAN, Warden — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

CENTRAL DISTRICT OF CALIFORNIA

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Albert Leon Watson (ID no. BD-9104)  
(Your Name)

P. O. Box 5248 (A-1 / 2-6 low)  
(Address)

Corcoran, CA 93212  
(City, State, Zip Code)

N/A  
(Phone Number)

QUESTION(S) PRESENTED

I.

WAS THE DISTRICT COURT'S USE OF STATE PENAL CODE  
JUSTIFYING VIOLATION OF SIX AMENDMENT A CORRECT  
APPLICATION OF STATE LAW ?

II.

WAS THE NINTH CIRCUIT'S FAILURE TO ISSUE A REASONED  
OPINION DIRECTLY RELATING TO THE FACTS OF THE CASE  
CLEARLY ERRONEOUS UNDER PURCELL v. GONZALEZ, 549 U.S. 1.

III.

DID THE NINTH CIRCUIT'S EN BANC HEARING IMPROPERLY  
USE AND APPLY RULE 27-10 and General Order 6.11 IN  
ITS RULING, UNDER HENRY v. RYAN 766 F. 3d 1059.

## **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**

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## TABLE OF AUTHORITIES CITED

### CASES

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### STATUTES AND RULES

Ninth Circuit Rule 27-10  
General Order 6.11

### OTHER

Penal Code 806 (California)

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 is unpublished.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 C 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 is unpublished.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 June 10, 2022.

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: August 26, 2022, and a copy of the order denying rehearing appears at Appendix B.

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).

## STATEMENT OF THE CASE

1. On August 9, 2017, petitioner was forced into pleading "Guilty" to several criminal charges, that actually never happen.
2. On or about, 9-12-2018, Petitioner filed a writ of error, in the trial court, in this matter raising three issues: 1) court use of a defective felony complaint; 2) no factual basis submitted to the trial court on the present charges; 3) no factual basis submitted to the trial court on the alleged prior convictions.
3. Throughout the state court proceeding neither the trial court, appellate court or the state supreme court issued a reasoned opinion with their summary denials.
4. On 09-05-2019, Petitioner file a Federal Habeas Corpus, attacking his state conviction.
5. On 11-01-2020, the district court denied petitioner's Habeas corpus.
6. On 11-19-2020, Petitioner file rule 59(e) motion.Which was denied on 12-01-2020.
7. On 02-05-2021, petitioner file a joint NOTICE OF APPEAL & REQUEST FOR CERTIFICATE OF APPEALABILITY, with the 9th Circuit.
8. on 06-10-2022, the 9th circuit denied petitioner's appeal.
9. On 06-24-2022, Petitioner file a motion for hearing EN BANC. see APPENDIX D
10. On 08-26-2022, the 9th Circuit denied petitioner request for En Banc Hearing.

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

### AMENDMENT VI

In all Criminal prosecutions, the accused shall enjoy the right right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

FEDERAL RULES OF APPELLATE PROCEDURE (FRAP) rule 35

9th Circuit rule 27-10, 35-1, 35-2, 35-3, 35-4

General Order 6.11

## REASONS FOR GRANTING THE PETITION

1. The provisions of the Sixth Amendment of our U.S. Constitution MANDATE there be ACCUSATORY PLEADINGS naming both the accused and the accuser. As well as, describing the exact nature of the alleged crime.

This jurisdictional mandate has not been applied in this case.

2. In all plea agreements, the court is required to ensure that there are present in the criminal case, a FACTUAL BASIS, upon which the court can be assured that the person Pleading to the charges is guilty of at least a crime as serious as that which is being pled to.

The record in this case, is totally absent and silent on the trial court's seeing or hearing any facts that would establish a factual basis for accepting Petitioner's Plea in both the alleged Prior conviction and the present case at bar.

3. The District Court's use of a state Penal Code, to justify the trial court's failure to have a signed complaint, by either a witness or victim, was an improper use of the California Penal Code 806.

It is a well known fact of law, that where there is no guiding federal law. That federal court will rely on state law. Such is the case in regard to general statute of limitation on civil suits. Since there is no federally established time limitations. The court will rely on the statutory limitation of the local state, where the suit is filed.

But this is not the case in regard to the establishment of SUBJECT MATTER JURISDICTION. Subject Matter Jurisdiction can only be affirmatively establish by a Grand Jury Indictment or a Complaint signed by either a witness or the victim of the alleged crime.

The failure of the trial court to secure any of the above provisions MANDATES the GRANTING OF THIS WRIT.

Any use of a state law, in federal courts is governed under Federal Common Law rules for determining governing state law. under ERIE RAILROAD CO. v. TOMPKINS, (1938) 304 U.S. 64, 58 S. Ct. 817, 82 L. Ed. 1188, evolved primarily to guide courts deciding diversity actions. however, Erie interpreted the Rule of Decision Act (RDA) 28 USC § 1652, to govern all federal actions applying state law... under RDA, a federal court using state law as its rule of decision must look first to the law as declared by that state's statutes or highest court. see Erie, at 78.

The California Supreme Court see the use of Penal Code § 806 as:

"complaint underlying this warrant of arrest does not initiate a criminal proceeding. Criminal proceeding need not be instituted before an arrest warrant may be issued." PEOPLE v. BITTAKER, 48 Cal. 3d 1046 (June 22, 1989).

So with absolute clarity of point, the California Supreme Court illustrates that penal code § 806 is used to issue arrest warrants. Not for the initiating of criminal proceedings.

Next, the Ninth Circuit failed to issue a reasoned opinion and denied the request for en banc hearing, under FRAP rule 35. The court's ruling cites rule 27-10 and General Order 6.11, as its authorities. But Ninth Circuit Decisions disavow the use of these rules and General Orders, in habeas proceedings.

"In an effort to justify the propriety of the call, the concurrence relies on General Order 6.11 and Ninth Circuit Rule 27-10(b). But neither rule is availing. By its express terms, General Order 6.11 applies only to orders issued by motions panel."

HENRY v. RYAN, 766 F. 3d 1059, 1070.

So just where are we to place the Court of Appeals and the District court's rulings, in this matter.

"... By failing to provide any factual findings or indeed any reasoning of its own the court of Appeals left this Court in the position of evaluating the court

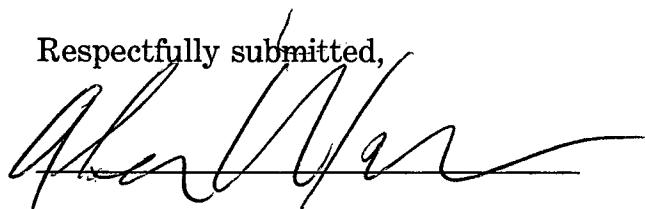
of appeals' bare order in light of the District Court's ultimate findings. There has been no explanation given by the Court of Appeals showing the ruling and findings of the District Court to be incorrect. In view of the ... necessity for clear guidance... and our conclusion regarding the court of appeals' issuance of the order we vacate the order of the court of Appeals."

PURCELL v. GONZALEZ, (2006) 549 U. S. 1, 6.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: October 10<sup>th</sup> 2022