IN THE SUPREME COURT OF THE UNITED STATES

No. 22-6765

Mamberto Real,

Petitioner,

v.

Michael Perry,

Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Eleventh Circuit

PETITION FOR REHEARING

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CORPORATE DISCLOSURE

The Corporate Disclosure Statement in the petition remains unchanged.

TABLE OF CONTENTS Page(s)

TABLE OF AUTHORITIES Page(s)

Rules

PETITION FOR REHEARING

Petitioner Mamberto Real, ("Mr. Real"); petition for rehearing of this Court's Abril 17, 2023, Order denying petition for a writ of certiorari.

REASONS FOR GRANTING REHEARING

Statement of the issues

According to this Court's Rule 44.1, a petition for rehearing will not be granted except by a majority of the Court, at the instance of a justice who concurred in the judgment or decision. Therefore, Mr. Real assumes that perhaps none of the justices would have granted the petition, However, in accordance with this Court's Rule 44.2, the grounds of a petition for rehearing shall be limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented. Therefore, Mr. Real states as follows: In addition to what was previously mentioned in Mr. Real's Reply brief in relation to the brief that was responded in opposition, showing violation of this Court's Rule 5. Mr. Real also asserts as follows; **Issue 1**: That this Court "overlooked" that respondent, (Counsel of Record) is not eligible to practice before this court. See Mr. Real's Reply Brief Exhibit A, at 5. The Florida Bar found probable cause of misconduct pronounced, against respondent' s counsel of record. Hence, there is a controlling effect upon Mr. Real's case. This Court must apply impartiality upon the rules of the court without respect to persons. **Issue 2**: Moreover, under federal and local rules, a brief in opposition should provide record references. Perry omits all record references, fails, to articulate any understandable reason to deny certiorari. Has Perry waived his brief in opposition? Is Perry familiar with the record?

I. Intervening Circumstances.

A. United States Court of Appeals for the Ninth Circuit. July 24, 2020. Bynoe v. Baca, 966 F. 3d 972 (9 th Cir, 2020)

"Bynoe seek relief under Rule 60 (b), which permits litigants to request reconsideration of a final judgment including, order or proceeding entered against them. The Rule lists five circumstances that may justify reopening a final judgment including, for example, new discovery evidence, fraud by the opposing party, or a mistake

committed by the court- and a sixth, catch-all category. The sixth ground for relief allows a court to reconsider a final judgment for "any other reason that justifies relief." Fed, R. Civ. P. 60 (b) (6).
In Bynoe the Court stated that extraordinary circumstances occur where there are "other compelling reasons" for opening the judgment. citing Klapprott v. United States, 335 U.S. 601, 613, 69 S, Ct. 384, 93 L.Ed. 266 (1949). Mr. Real affirms that in accordance with his writ of certiorari there are "other compelling reasons" for opening the judgment. Furthermore, the context and nature of the injustice borne by the petitioner absent a re-opening of the judgment is also relevant. See for example Buck v. Davis. U.S. 137 S. Ct. 759. 778-779, 197 L. Ed. 2d 1 (2017). Mr. Real firmly asserts that this Court representing justice and impartiality for the people and by the people should not allow the events that occurred in Mr. Real's trial denigrating the judicial system. In Mr. Real's trial the jury is aware of the allegations supporting writ of certiorari, likewise, respondent's counsel of record and Mr. Real's lawyer. All of them currently are convinced that the judicial system is a game where injustice may prevail without a good lawyer...

B. Buck v. Davis, 580 U.S. 100, 126, 128, (2017)

In Buck Chief Justice John Roberts wrote "In determining whether extraordinary circumstances are present, a court may consider a wide range of factors, these may include, in an appropriate case, "the risk of injustice to the parties" and "the risk of undermining the public's confidence in the judicial process." Liljeberg v. Health Services Acquisition Corp., 486 U.S. 847, 863-864. 108 S. Ct. 2194. 100 L.Ed 2d 855 (1988).In the circumstances of this case, the District Court abused its discretion in denying Buck's Rule 60 (b) (6) motion..." Mr. Real argues that in his particular case the wide range of factors may include, a defendant's witness remarkable contact with the jury before verdict calling for extraordinary circumstances for relief under Rule 60 (b) (6). In addition, calling also for extraordinary circumstances because Mr. Real's Lawyer failed to notify District Court with respect to defense's witness obstruction of justice and misconduct. Therefore, a jurist of reason should consider Mr. Real's writ as intervening circumstances seeking relief, and to construct the motion under Rule 60 (b) (6). Otherwise, the Judicial System lacks uniformity. If Mr. Real's petition for rehearing is denied, at least he deserves a legal

explanation as a matter of law as to why relief should not be granted, for him to understand the magnitude of injustice.

C. Mr. Real's Motion Rule 60 (b), before district court. Fed. R. Civ. P. 60 (b) (6)

A Rule 60 (b) motion contains six provisions to reopen a civil case. This sixth provision is for "any other reason that justifies relief." To fix under the "other reason" provision, three things must be shown: (1) no other provision applies under Rule 60 (b), (2) it is filed "within a reasonable time," and (3) there must be "extraordinary circumstances." Even when Mr. Real's motion under Rule 60 (b). was not considered to be newly discovered by district court, the supra motion qualifies sua sponte under Rule 60 (b) (6), in order to protect among other things, the due administration of justice before a remarkable misconduct from a defense's witness. Therefore, Mr. Real's motion constitutes an intervening circumstance calling for reasonable interpretation amongst jurists of reason, because Mr. Real's Motion is debatable upon writ of certiorari or rehearing; to decide extraordinary circumstances.

D. Intervening Circumstances should not be solely due to a change in the law, but also to apply justice showing extraordinary circumstances to provide relief

The broad authority derived from Fed. R, Civ. P. 60 (b), made possible the different interpretation between Klapprott supra's extraordinary circumstances and Ackermann v. United States, 340 U.S. 193, 199, 71 S. Ct. 209. 95 L. Ed. 207 (1950), showing no extraordinary circumstances. Due to the tremendous ineffective assistant counsel, of their lawyers, Mr. Real fired them, See Case No. 2:18-cv-00331-JES-NPM-Docs 153, 158. Like Klapprott. Mr. Real did not have the resources to hire a good attorney to represent him in a motion for a new trial under Rule 60 (b), Mr. Real didn't even know that Fed. R. Civ. P. 60 (b) exited to reopen a case or to vacate a judgment. Mr. Real was obtaining fundamental information reading about the laws that control his case and doing so by simultaneously living in a room without a bathroom and in his own car and losing the vision in his right eye. There is not much difference between Klapprott's s struggle and Mr. Real seeking justice, except Klapprott's prison. Perhaps a Justice or Justices of this Court would not consider an extraordinary circumstance that a defense's witness had a significant contact

However, a normal person without legal education could consider that despicable action from a defense's witness beyond extraordinary circumstances, beyond common sense and beyond partiality. Mr. Real asserts that if he had had a lawyer of the stature of Thurgood Marshall, Johnnie Cochran, or John Marshall Harlan; the outcome of his case would have been completely different. But who is Mr. Real? Mr. Real is a black Cuban man quasi-homeless acting pro se before the highest Court of this great nation, and who would care to do him justice. However, Mr. Real acknowledges that in his condition it has been a great honor to have been able to litigate before this court even though justice does not embrace him. Perhaps this argument of Mr. Real is irrelevant, immaterial or scandalous by this court, but the truth has only one color, which although it can be changed, in the end always comes to light by those who changed its color.

CONCLUSION

For the foregoing reasons, and those stated in the petition of certiorari, this Court should grant rehearing, grant the petition for writ of certiorari, and review the judgment below. Alternatively, this court may order a hearing so that all parties involved are placed under oath to affirm or to deny the unverified allegations. In this way the truth would come out, and justice could be carried out

CERTIFICATE OF A PARTY UNREPRESENTED BY COUNSEL. RULE 44.2

I hereby certify that this petition for rehearing is presented in good faith and not for delay and is restricted to the grounds specified in Rule 44.2, according to my understanding.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been submitted by mail to Attorney Robert B. Burandt at 1714 Cape Coral Parkway East Cape Coral, FL 33904. On May 1 2023, In accordance with Rule 29.3

Respectfully submitted:
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