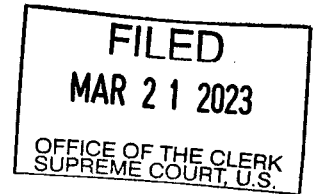


22-7161

ORIGINAL

No. _____



IN THE

SUPREME COURT OF THE UNITED STATES

Moses Estrada

— PETITIONER

(Your Name)

vs.

State of California

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Supreme Court of California

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

PETITION FOR WRIT OF CERTIORARI

Moses Estrada, #BJ9108

(Your Name)

3A04-103 · P.O. Box 3461

(Address)

Corcoran, CA 93212

(City, State, Zip Code)

n/a

(Phone Number)

QUESTION(S) PRESENTED

1. Is justice served when the Court of Appeals does not issue its order until more than eleven (11) months have passed since the motion was submitted - then denies appellant the opportunity to have an application to extend time to submit petition for rehearing?
2. Is justice denied when the Court of Appeal does not allow appellant to have a copy, transcript or audio of live oral arguments where appellant is not permitted to attend?
3. Does an extended untimely denial of a recall remittitur (over eleven (11) months) imposes a due process violation because it is an impediment to seeking finality in state courts and impedes "filing an application created by state action..."?

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

Appellant was unable to locate a case with similar characteristics.

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE WRIT	6
CONCLUSION.....	7

INDEX TO APPENDICES

APPENDIX A	<i>Court of Appeal order</i>
APPENDIX B	<i>Petition to extend time for rehearing</i>
APPENDIX C	<i>court of appeal denial</i>
APPENDIX D	
APPENDIX E	
APPENDIX F	

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Burnett v. New York Central R. Co., 386 U.S. 424, 428, 85 S.Ct (1965)
Valenzuela v. McEwen, 544 Fed. Appx. 701
Holland v. Florida, 560 U.S. 631, 130 S.Ct. (2010)
Bowen v. Roe 188 F.3d 1157, 1159 (9TH Cir. 1999)
Bui v. Hedgpeth, 516 F.Supp. 2d 1170, 1172 (C.D. Cal 2007)
Saffold v. Newland, 250 F.3d at 1265 (9TH Cir. 2001)
Rutledge v. United States, 230 F.3d 1041 (7TH Cir. 2000)

STATUTES AND RULES

U.S.C. 28 § 2244 (d)(1)(a)
U.S.C. 28 § 2244 (d)(1)(b)
U.S.C. 28 § 2244 (d)(1)
U.S.C. 28 § 2244 (d)(2)
California Rules of the Court rule 8.272(c)(2)

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 n/a to the petition and is *(unavailable due to federal motion submission)*

- ☒ reported at People v. Estrada, 2022 Cal. Lexis 7702; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the Court of Appeals 4TH DISTRICT, 2ND DIV. court 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.

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 denied.
A copy of that decision appears at Appendix n/a. *People v. Estrada, 2022 Cal. Lexis 7702*
(The copy was submitted to a different court)

☒ A timely petition for rehearing was thereafter denied on the following date: December 21, 2022, and a copy of the order denying rehearing appears at Appendix see above

☐ 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

U.S. Constitution , 1ST Amendment
U.S. Constitution , 5TH Amendment
U.S. Constitution , 6TH Amendment
U.S. Constitution , 14TH Amendment

STATEMENT OF THE CASE

Appellant was convicted of seven (7) counts of California Penal Code § 288(a), a sex offense against two victims. The convictions received 25-years-to-life (one concurrent term) sentences pursuant to Penal Code § 667.61 based on the multiple victim circumstances.

An appeal was timely filed through court-appointed counsel. The Court heard oral arguments on the matter. The court affirmed the judgment with directions.

Appointed counsel filed petition for review before the Supreme Court of California, # S269371. The review was denied without comment.

Appellant filed a pro-se Recall remittitur motion with the court of Appeal on October 14, 2021. Service was provided to the trial court and People (Attorney General). The mailings were logged into prison records on October 15, 2021.

Appellant then filed a Writ of Certiorari with this Court on October 19, 2021, # 21-6103.

Appellant discovered in July 2022 that the Court of Appeal had not received the motions, which were resent on July 29, 2022 and September 18, 2022.

STATEMENT OF THE CASE

Appellant received a denial from the Court of appeal on September 24, 2022. Though actually received on September 30, 2022.

Appellant sought and submitted an application and Declaration to extend to time submit petition for rehearing on October 18, 2022 pursuant to California Court rules.

Appellant was denied on October 24, 2022 for lack of jurisdiction.

Appellant filed a Petition for Review with the Supreme Court of California on November 18, 2022, # S277366 which was denied on December 21, 2022.

REASONS FOR GRANTING THE PETITION

Appellant prays the court consider the due process of an indigent inmate who in good faith submitted a proper motion that was not actually sent out by the prison or lost by the court of appeal.

To confirm that the court of appeal is properly giving fair notice of the court's proceedings when it denies indigent inmates the ability to be present at oral arguments, does not provide transcripts or audio to appellant. Thus limiting an appellant from properly pursuing meritorious claims any further.

To address if in fact the state of California has placed a barrier in allowing for a timely motion to reach the court of appeal and have a timely response. When such a delay jeopardizes federal deadlines and litigation.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

More Eth

Date: March 21 2023