

No. 22-7330

ORIGINAL

Supreme Court, U.S.  
FILED

APR 14 2023

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IN THE

SUPREME COURT OF THE UNITED STATES

Pedro Perez Hernandez — PETITIONER  
(Your Name)

United States of America  
~~Southern District of Texas~~ — RESPONDENT(S)  
"et-al"

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

Pedro Perez Hernandez  
(Your Name)

P.O. Box-5000  
(Address)

USP- Yazoo City, Mississippi. 39194  
(City, State, Zip Code)

N/A  
(Phone Number)

### QUESTION(S) PRESENTED

Petitioner contends that no reasonable juror could have found guilty of offense of "reentry" into United States, which was for the following violations. Where Petitioner been claiming "innocence".

1. Sixth Constitutional Amendment (Effective Assistance of Counsel). Where defense trial-counsel fell short as described by the VI Amend. Where failed to investigate how Petitioner was released as United States Citizen from McRae Correctional Facility.

Petitioner was released from McRae Corr. Fac, as U.S. Citizen by one I.C.E.'s specialized agency (I.L.P.D) whom are attorneys experts in citizenship to prevent persons like petitioner to be detained or removed. (I.L.P.D.) sent an e-mail to McRae Fac. stating: "Please remember that the below alien (Petitioner) will NOT be taken into ICE custody as he was determined to have derived U.S. Citizenship status through his adopted-father."

2. Fifth Constitutional Amendment (Due Process). Where was unlawfully deported without a final order by I.J., without allowed to receive decision by B.I.A., as thus deprived for judicial review at proper Circuit Court of Appeals. Among other "Due-Process" violations, e.g., He was indicted when his case was pending at Fifth Cir. Court of Appeals. Deported when his "Direct Appeal" was pending at Fifth Cir. Court of Appeals.

3. Abuse of Discretion. Where Petitioner presented at sentencing a notice from B.I.A., that his motion and fee-waiver was granted, should have sent to immigration court, but NOT to convicted of "illegal reentry" or to serve time.

## 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:

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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 B 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

☐ reported at N/A; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

The opinion of the N/A court appears at Appendix N/A to the petition and is

☐ reported at N/A; 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 ~~September 30, 2022~~ February 16, 2023.

☒ 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 N/A.  
A copy of that decision appears at Appendix \_\_\_\_\_.

☐ A timely petition for rehearing was thereafter denied on the following date: N/A, and a copy of the order denying rehearing appears at Appendix N/A.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including N/A (date) on N/A (date) in Application No. \_\_\_\_ A N/A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

## STATEMENT OF THE CASE

Petitioner would like to present evidence that had been treated unfairly where been Constitutional violation(s):

Sixth Constitutional Amendment (Effective Assistance Of Counsel). Where trial defense counsel failed to investigate or bring the claim of "Derivative Citizenship by his U.S. Citizen and ex-marine adopted-father"., where Petitioner was released as United States Citizen from McRae Correctional Facility.

Fifth and Fourteenth Constitutional Amendment (Due Process). Where was deported without allowed to received original decision by Board Of Immigration Appeals, as thus deprived for "judicial review" at proper Circuit Court of Appeals.

And where his "Direct Appeal" was pending at Fifth Circuit Court of Appeals, and where his immigration case was reopened at B.I.A., and where was deported without a final order by Immigration Judge, where Deportation Officer does NOT have jurisdiction to order to deport a Lawful Permanent Resident.

And where his Permanent Resident Card had NOT been removed or canceled, therefore is NOT illegally in United States, neither should had been convicted of offense of "Illegal entry into United States".

And where District Court committed "actual bias" by participated unlawfully with accomplice of Government and trial defense counsel by planting a poison seed of explanation that Petitioner had "Withdraw Petition For Naturalization", where been incomplete, and where District Court does NOT have jurisdiction to granted to "withdraw" a Petition For Naturalization, only can be done by the Attorney General.

See, Coleman v. Thompson, 501 U.S.722,750,111 S. Ct. 115 L.Ed.2d.649(1991). "Thus, in an extraordinary case where a Constitutional violation has probably resulted in the conviction of one who is actually innocent."

See, Malloy v. Hogan, 378U.S.1,122L.Ed.3d.653,84.S. Ct.1489. "The Court shall be of the opinion that the error complained of has resulted in a miscarriage of justice."

Petitioner have provatibe, credible, and reliable evidence of he is actually innocent of had been convicted of "Illegal reentry".

Petitioner have evidence to establish that had been legally adopted by his U.S. Citizen and ex-marine adopted father, where Counselor Officer (CO) under his discretion and consideration admitted Secondary evidence instead of "adoption decree", and where meet the condition under 8 U.S.C. Section 1431.

Petitioner contends that have acquire derivative Citizenship Status through his



## REASONS FOR GRANTING THE PETITION

Petitioner contends that this Honorable United States Supreme Court should entertain this present case due that not only lower Court (District Court) had abuse of its discretion, and where been Constitutional violation, and where "actual bias" has occurred where District Court unlawfully participated on Petitioner's case.

And where been claiming Citizenship status by his U.S. Citizen and ex-marine adopted father, as had been determined by one ICE's specialized agency (I.L.P.D.) whom are attorneys expert in citizenship to prevent persons like Petitioner from been detained or removed from United States.

And where Honorable Fifth Circuit Court Of Appeals had acted arbitrary and capriciously where Petitioner requested for "extension of time" of 30 days and was granted that at the time received the notice only left 6 days to filed Secondary/Successive 28 U.S.C Section 2255., that when requested for (60) days.

Next notice received from Honorable Fifth Circuit Court of Appeals was "dismissed for failure to comply with Court's notice", denying petition for rehearing en banc.

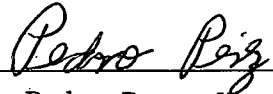
Petitioner pray to this Honorable United States Supreme Court that in "Light of Justice", and the public interest where been so much injustice on Petitioner's case, and where there are other Appellates Courts with disagreements of decision of present case.

### CONCLUSION

WHEREFORE, Petitioner had presented reliable, credible, and probative evidence that no reasonable juror could have found guilty of offense of "Illegal entry" into U.S.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

  
\_\_\_\_\_  
Pedro Perez Hernandez

Date: April 3, 2023. \_\_\_\_\_