

No. 22-7801

IN THE
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED
MAY 19 2023
OFFICE OF THE CLERK

IMMANUEL PRICE — PETITIONER
(Your Name)

vs.

SCOTT KERNAN — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

IMMANUEL PRICE
(Your Name)

44150 60th STREET WEST
(Address)

LANCASTER, CALIFORNIA, 93539
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

- ① THE QUESTION I HAD ASKED THE LOWER COURTS WAS WHETHER OR NOT I WAS ENTITLED TO THE EFFECTIVE ASSISTANCE OF COUNSEL, DURING THE PLEA BARGAINING STAGE, IN A MIXED FORM OF REPRESENTATION WHERE I REPRESENTED MYSELF PRO PER FOR ONE CASE INCLUDED IN A "GLOBAL PLEA OFFER" AND REPRESENTED BY THE PUBLIC DEFENDERS OFFICE FOR THE OTHER TWO CASES INCLUDED IN THE GLOBAL PLEA OFFER.
- ② AND WHETHER OR NOT UNDER THIS UNIQUE SET OF FACTS I HAD RECEIVED EFFECTIVE ASSISTANCE OF COUNSEL.

TABLE OF AUTHORITIES CITED

CASES

LAFLER v COOPER (2012) 566 US 156
JOHNSON v VRIBE (9th Cir 2012) 700 F3d 413
NUNES v MUELLER (9th Cir 2003) 350 F3d 1045
PEOPLE v GOODWILLIE (2007) 147 CA 4th 695

PAGE NUMBER

STATUTES AND RULES RULES OF THE STATE BAR OF CALIFORNIA
RULES OF PROFESSIONAL CONDUCT - RULE 2-100 (COMMUNICATION w/ REPRESENTED
PARTY)

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 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 is unpublished.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 _____ 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 is unpublished.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 is unpublished.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 is unpublished.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

LAFLER v WOPER (2012) 566 US 156

JOHNSON v VRIIBE (9th Cir 2012) 700 F3d 413

NUNES v MUELLER (9th Cir 2003) 350 F3d 1045

PEOPLE v GOODWILLIE (2007) 147 CA 4th 695

STATEMENT OF THE CASE

I HAD THREE SEPERATE FELONY CASES PENDING IN THE SAN DIEGO COUNTY SUPERIOR COURT. THE CASE NUMBERS ARE SCD 249272, SCD 255402 AND SCE 338346.

I WAS PRO PER FOR CASE, SCE 338346.

COUNSEL FROM THE SAN DIEGO PUBLIC DEFENDERS OFFICE WAS ASSIGNED TO REPRESENT ME FOR CASES SCD 249272 AND SCD 255402. DENIS LAINÉZ WAS COUNSEL OF RECORD.

THE PROSECUTOR, IN CASE SCE 338346 OFFERED TO CONSULT WITH HER SUPERVISOR TO EXPLORE THE POSSIBILITY OF RESOLVING ALL THREE OF THE ABOVE NUMBERED CASES IN A "GLOBAL PLEA OFFER", ON JUNE 26, 2014, IN OPEN COURT.

ON JUNE 27, 2014 I APPEARED IN COURT, IN CASE SCE 338346. A SUBSTITUTE PROSECUTOR, STANDING IN FOR MS. SPITZBERG, THE PROSECUTOR ASSIGNED TO CASE SCE 338346 AND WHO OFFERED TO CONSULT WITH HER SUPERVISOR REGARDING A 'GLOBAL PLEA OFFER'; APPEARED WITH INFORMATION THAT THE STATE WAS OFFERING ME 17 YEARS 8 MONTHS FOR 'GLOBAL RESOLUTION' OF THE THREE CASES.

[CONT ON S.D.C 2]

1 ALTHOUGH DENIS LAINES, DEPUTY PUBLIC DEFENDER
2 WAS ASSIGNED TO REPRESENT ME FOR CASES
3 SCD 249272 AND SCD 255402, AND HE AND
4 PROSECUTOR MS. SPITZBERG HAD, HAD PRIOR
5 CONVERSATIONS ABOUT THE POSSIBILITY OF A
6 'GLOBAL PLEA OFFER' INCLUDING CASES SCD 249272
7 AND SCD 255402, TO WHICH HE WAS ASSIGNED;
8 DENIS LAINES WAS NOT PRESENT IN COURT
9 WITH ME ON JUNE 27, 2014.

10 INSTEAD A : MARISSA REMIKER FROM THE
11 PUBLIC DEFENDERS OFFICE WAS PRESENT. I HAD
12 NEVER MET MS. REMIKER BEFORE. MS. REMIKER
13 WAS NOT FAMILIAR WITH MY CASES OR THE
14 REASON FOR WHY I WAS EVEN IN COURT ON
15 JUNE 27, 2014 AND THE JUDGE, EVEN NOTED
16 AS MUCH FOR THE RECORD AT RT 1:1-28
17 (SCE 338346 JUNE 27, 2014) BY STATING THAT
18 MS. REMIKER 'DOESN'T KNOW WHAT'S GOING ON.'

19
20 THE PROSECUTOR AND THE COURT INFORMED ME
21 THAT REJECTION OF THE OFFER OF 17 YEARS
22 EIGHT MONTHS COULD RESULT IN A POTENTIAL
23 MAXIMUM OF '30 000 YEARS' IN PRISON IN
24 CASE OF A GUILTY VERDICT ON ALL CHARGES
25 IN THE THREE CASES AFTER TRIAL.

26
27 [CONT ON S.O.C 3]

S.O.C 2

1 MS REMIKER, WHO WAS STANDING IN FOR DENIS LAINEZ
2 DID NOT PARTICIPATE IN THE PLEA PROCEEDING
3 AT ALL.

4 WITH THE UNDERSTANDING THAT I WAS FACING
5 A MAXIMUM OF 30 YEARS IF FOUND GUILTY
6 ON ALL CHARGES IN THE THREE CASES. I
7 REJECTED THE 17 YEAR EIGHT MONTH OFFER.

8
9 ON JULY 18, 2014, MS. SPITZBERG MOVED TO
10 ALLEGUE ANOTHER STRIKE THAT SHE CLAIMED
11 THAT SHE FOUND, IN CASE SCE 33834b.

12
13 ALLEGING THIS SECOND STRIKE MEANT THAT IN
14 CASE SCE 33834b ALONE, THE POTENTIAL MAXIMUM
15 SENTENCE WAS INCREASED FROM 28 YEARS, TO
16 40 YEARS TO LIFE.

17
18 I EXPLAINED TO THE COURT AT THAT POINT THAT
19 IF I HAD KNOWN THAT I HAD ANOTHER STRIKE
20 THAT WOULD BE ALLEGED, EXPOSING ME TO A
21 POTENTIAL LIFE SENTENCE IN ANY OF MY CASES
22 THEN I WOULD HAVE ACCEPTED THE 17 YEAR
23 EIGHT MONTH OFFER ON JUNE 27, 2014.

24
25 I FILED A MOTION FOR SPECIFIC PERFORMANCE IN
26 THE STATE COURT EXPLAINING THAT I HAD BEEN
27

S.O.C. 3

[CONT ON S.O.C.4)

1 MISINFORMED AS TO THE POTENTIAL MAXIMUM
2 SENTENCE I WAS FACING IN CASE SCD 249272
3 WHERE I WAS REPRESENTED BY THE PUBLIC
4 DEFENDERS OFFICE AND IN SCE 338346 WHERE
5 I WAS PRO PER.

6 I EXPLAINED THAT I WOULD HAVE ACCEPTED
7 THE 17 YEAR EIGHT MONTH OFFER HAD I BEEN
8 PROPERLY ADVISED BY COUNSEL AND BY THE COURT
9 AND THE PROSECUTOR ABOUT WHAT MY POTENTIAL
10 MAXIMUM SENTENCE REALLY WAS IN LIGHT OF
11 THE UNCHARGED SECOND STRIKE.

12 I THOUGHT THAT MS. REMIKER WHO WAS REPRESENTING
13 ME FOR SCD 249272, A BURGLARY CASE WHICH
14 IN CALIFORNIA IS A 'STRIKE' OFFENSE SHOULD
15 HAVE TOLD ME THAT THERE WAS A SECOND STRIKE
16 THAT THE PROSECUTOR COULD POTENTIALLY ALLEG
17 THAT IF THAT STRIKE IS ALLEGED I WOULD
18 AND THAT AT THAT POINT BE FACING A LIFE SENTENCE.
19
20

21 I THOUGHT THAT EFFECTIVE ASSISTANCE OF COUNSEL
22 MEANT THAT DURING THE PLEA BARGAINING STAGE
23 COUNSEL WAS REQUIRED TO INFORM ME OF THE
24 POTENTIAL MAXIMUM SENTENCE INCLUDING THE POTENTIAL
25 EFFECT OF ANY UNCHARGED SENTENCE ENHANCEMENTS.
26
27

1 I ULTIMATELY PLED GUILTY IN EXCHANGE FOR A
2 31 YEAR SENTENCE, TO AVOID THE POTENTIAL
3 LIFE SENTENCE.

4 THE 31 YEAR OFFER WAS ALSO A "GLOBAL PLEA
5 OFFER" RESOLVING ALL THREE OF THE ABOVE
6 NUMBERED CASES.

7
8 I ASKED THE COURT TO FIND THAT I WAS NOT
9 PROVIDED EFFECTIVE ASSISTANCE OF COUNSEL
10 BECAUSE MS. REMIKER DID NOT INFORM ME OF
11 THE REAL POTENTIAL MAXIMUM SENTENCE I WAS
12 FACING, IN LIGHT OF THE UNCHARGED SECOND
13 STRIKE, WHICH RESULTED IN MY REJECTION
14 OF THE 17 YEAR EIGHT MONTH OFFER WHICH
15 WAS MORE FAVORABLE THAN IT APPEARED TO
16 ME ON JUNE 27, 2014, IN MY UNINFORMED
17 STATE OF MIND.

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S.O.C 5

REASONS FOR GRANTING THE PETITION

THIS CASE IS UNIQUE AND OF NATIONAL IMPORTANCE BECAUSE THE CASES IN WHICH THE UNITED STATES SUPREME COURT HAS ADDRESSED DEFENSE COUNSEL'S RESPONSIBILITIES IN MIXED REPRESENTATION CASES, WHERE THE DEFENDANT IS ALSO REPRESENTING HIMSELF IN PRO PER ARE FEW.

THE DISTRICT COURT HELD THAT BECAUSE I WAS REPRESENTING MYSELF IN PRO PER, FOR ONE OF THE CASES INCLUDED IN THE 'GLOBAL PLEA OFFER' I WAS NOT ENTITLED TO THE ASSISTANCE OF COUNSEL, ON JUNE 27, 2014.

THE NINTH CIRCUIT COURT OF APPEALS DENIED A CERTIFICATE OF APPEALABILITY.

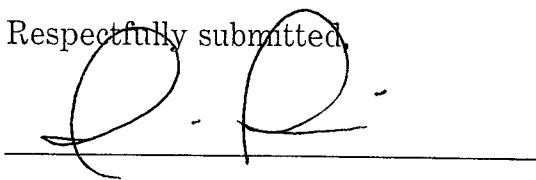
I THINK THAT CASES LIKE THIS ONE ARE LIKELY TO OCCUR AGAIN.

I AM ASKING THAT THIS COURT AFFIRM THAT COUNSEL EVEN IN FORMS OF MIXED REPRESENTATION AND DURING THE CRITICAL PLEA BARGAINING STAGE ARE STILL REQUIRED TO PROVIDE EFFECTIVE ASSISTANCE OF COUNSEL INCLUDING ACCURATELY INFORMING THE DEFENDANT OF HIS MAXIMUM SENTENCE HE FACES.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature consisting of two stylized, overlapping loops, possibly initials, followed by a horizontal line.

Date: 5/18/2023