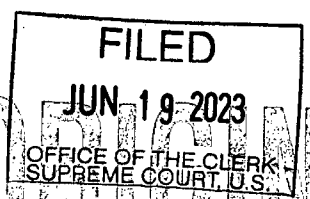


22-7879



CASE No.

IN THE SUPREME COURT OF THE UNITED STATES

OLYRIC ROBINSON,

APPELLANT

v.

THE PEOPLE,

RESPONDENTS

APPELLANT'S PETITION FOR WRIT OF CERTIORARI / WRIT OF REVIEW PURSUANT TO RULE 10
OF RULES OF THE SUPREME COURT OF THE UNITED STATES

PETITION FOR A WRIT OF CERTIORARI

Olyric Robinson - E53822

Address: San Quentin State Prison, 3-n-3, San Quentin, CA, 94972

Appellant, *Pro Se*

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I. QUESTIONS PRESENTED

1. On July 15, 2021, the Appellant was arrested for an alleged violation of his parole on account of committing a felony Hit and Run-Person(Injury) under Vehicle Code Section 20001.
2. Thereafter, on September 10, 2021, the Trial Court, in Case No. 21PA012234 concluded that the Appellant/Defendant had violated the terms of his parole by fleeing the scene of an injury accident, and thus, the Appellant was remanded back to the custody of CDCR for future parole reconsideration hearings ("**Trial Court ORDER**").

A copy of the Trial Court Order is herein attached as:

EXHIBIT A (TRIAL COURT ORDER; ALONG WITH AN EXCERPT ATTACHMENT)

THE TRIAL COURT'S CERTIFIED TRANSCRIPT; (PGS. 1, 2, 3, 4, 5, 34, AND 35) SHOWING HOW

THE COURT DID NOT ALLOW RELEVANT TESTIMONY REGARDING A MANDATED STEP NOT UTILIZED.

(IE. USAGE OF THE PAROLE DECISION MAKING INSTRUMENT -PVDMI).

3. The matter went on to the Court of Appeals, Third Appellate District, bearing Case No. C095260, where the Appellant challenged the Trial Court Order for lack of substantial evidence. However, the Appellate Court concluded that there was substantial evidence

below, the Appellant requests that this Court grants the petition and the requested relief in favor of the Appellant and against the Respondents.

6. In view of the above, the following questions are presented:
 - (i) Whether the state courts of California rendered decisions in violation of precedents established by other state courts of last resort or United States Court of Appeals?
 - (ii) Whether the Appellant was denied his due process rights under the U.S. Constitution, Amdt.14.S1.3? and
 - (iii) Whether the Appellant's parole was revoked in error?

II. PETITION FOR WRIT OF CERTIORARI

7. Olyric Robinson petitions this Court for a Writ of Certiorari to review the judgment of the Supreme Court of California.

III. JURISDICTION

8. The Supreme Court of California entered the Denial Decision on March 22, 2023 (EXHIBIT C). Hence, this petition is timely pursuant to Rule 13 (*Review on Certiorari: Time for Petitioning*) of the Rules of the Supreme Court of the United States.
9. This Court has jurisdiction under U.S.C., Title 18, Section 1254.

IV. STATUTORY PROVISIONS INVOLVED

10. The case involves Appellant's due process rights under the U.S. Constitution and obligatory provisions set forth in CA Title 15, which entitles Appellant parolee to

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Cases:

Ford v. Wainwright (5th Cir. 1977) 549 F.2d 981, 982

Morrissey v. Brewer (1972) 408 U.S. 471, 482

In re In re Haverty (1980) 94 Wn.2d 621, 622

Statutes:

Rule 13 (Review on Certiorari: Time for Petitioning) Rules of the Supreme Court of the
United States

U.S. Constitution, Amdt.14.S1.3

certain rights for a fair determination on revocation of his parole. The text of each of these provisions is contained in **EXHIBIT D**.

V. STATEMENT OF THE CASE

11. Appellant, Olyric Robinson, was arrested on July 15, 2021 for a violation of his parole. The violation alleged Condition 4 of the conditions of his parole, forbidding criminal conduct, by committing a felony Hit and Run (Veh. Code§ 20001, Person-Injury).
12. On September 10, 2021, the Trial Court concluded that the Appellant/Defendant had violated the terms of his parole and thus, the Appellant was remanded back to the custody of CDCR for future parole reconsideration hearings (**EXHIBIT A**).
13. In the Court of Appeals, Third District, it briefly summarized the procedure(s) set in place by CA Title 15 §3768.3. However, some of the mandated procedures were excluded from the Appellate Court Decision. It vaguely summarized the procedure(s) as, *“A parolee is subject to arrest at any time during the period of parole if any parole agent...has a probable cause to believe that the parolee is violating any term or condition of his or her parole. (Pen. Code, §3000.08, subd. (c.) The parole agent may petition to revoke parole, (ID., subd. (f)).”*

14. Thereafter, the Petition of Review was also denied by the Supreme Court of California under its Denial Decision it blatantly disregarded the of errors of law committed by the Trial Court and Appellate Court.

VI. LEGAL ARGUMENTS FOR THE INSTANT WRIT

Standard of Review:

15. In rendering the Trial Court Order, the Appellate Court Decision, Petition for Rehearing Decision and the CA Supreme Court Denial Decision, the lower courts and the CA State Supreme Court failed to take into account that the Appellant was not provided his due process rights prior to the revocation of his parole. This is in direct violation of precedents established by the United States Court of Appeals which mandate due process considerations as obligatory before parole revocation.
16. Accordingly, the Appellant is filing this instant petition pursuant to Rule 10(b) of the Rules of the Supreme Court of the United States which states that a petition for a Writ of Certiorari will be granted if “(b) *a state court of last resort has decided an important federal question in a way that conflicts with the decision of another state court of last resort or of a United States court of appeals*”. [Emphasis Added]

Conflict with Decision of U.S. Court of Appeals:

17. In *Ford v. Wainwright* (5th Cir. 1977) 549 F.2d 981, 982, the United States Court of Appeals for Fifth Circuit ruled that “*A parole revocation hearing unreasonably delayed cannot*

meaningfully be remedied by a new, further delayed proceeding. Rather an unreasonable delay in holding a revocation hearing gives rise to the presumption of prejudice. In such circumstances, a parole violator warrant must be quashed.” [Emphasis Added] In the instant case, the Appellant was denied a preliminary hearing altogether. Therefore, the decision of revocation of his parole must be quashed by the Supreme Court.

18. The Appellant also highlights an error of law in Appellate Court Decision, which stated that *“Upon finding that a person has violated the conditions of parole, the court shall have the authority to, revoke parole and order the person to confinement in a county jail.”* Again, the Appellant was denied his due process rights. A preliminary hearing did not take place within fifteen (15) days of the DAPO arrest, which is incumbent as per *Morrissey v. Brewer* (1972) 408 U.S. 471. The Appellant was constitutionally entitled to a preliminary hearing, which did not take place. *“Parolees facing revocation are entitled to due process protections. (Morrissey v. Brewer (1972) 408 U.S. 471, 482 [33 L.Ed.2d 484, 92 S.Ct. 2593].)*

Conflict with Decision(s) of Another State Court of Last Resort:

19. In *In re In re Haverly* (1980) 94 Wn.2d 621, 622 [618 P.2d 1011, 1011], the Supreme Court of Washington held that *“A parolee's due process rights to a hearing before being incarcerated for violation of a condition of parole are that there must be an opportunity for a hearing, if it is desired by the parolee, prior to the final decision on revocation by the parole authority. This hearing must be the basis for more than determining probable cause; it must lead to a final*

evaluation of any contested relevant facts and consideration of whether the facts as determined warrant revocation. The parolee must have an opportunity to be heard and to show, if he can, that he does not violate the conditions, apparently not applicable in the case of a conviction or, if he does, that circumstances in mitigation suggest that the violation does not warrant revocation." Further, *"The parolee must have an opportunity to explain why a subsequent conviction should not result in parole revocation. This "opportunity to explain" is to occur before the body vested with parole revocation authority, the Board of Prison Terms and Paroles."* *In re In re Haverty* (1980) 94 Wn.2d 621, 622 [618 P.2d 1011, 1011]. Hence, the provision of due process rights is extremely incumbent to the American justice system and hence warrants an action by the instant Supreme Court to take notice of the Trial Court Order, Appellate Court Decision, Petition for ReHearing Decision and Denial Decision by the Supreme Court of California.

20. The aforementioned courts rendered decisions in blatant violation of precedents set by other state courts of last resort. The Appellant was denied his due process and/or an opportunity to explain and argue that there was lack of utilization of PVDMI, which is crucial and mandatory. Moreover, an arraignment hearing was scheduled for the Appellant to enter a plea. With respect to the PVDMI, the Appellant could have argued during the hearing that there is also no evidence of any mandated CDCR form 1500, that ought to be generated prior to a parole revocation hearing. The CDCR form 1500 was generated a year after the Appellant's arrest, which is a blatant violation of the law

4. Thereafter, the Appellant filed a Petition for ReHearing before the Third District Appellate Court, bearing (the same) Case No. C095260, requesting a reconsideration of the decision issued on the case. The Petition for Review was denied by the Third District Appellate Court.

A copy of the Appellate Court Decision is herein attached as:

EXHIBIT C (PETITION FOR REHEARING DECISION)

5. And a final state level Petition for Review was sought before the Supreme Court of California, bearing Case No. S278672, requesting review of the Appellate Court Decision and Trial Court Order (“**Petition for Review**”) was filed. However, on March 22, 2023, the Petition for Review was denied by the Supreme Court of California (“**Denial Decision**”).

(A copy of the Denial Decision is herein attached as:

EXHIBIT C (CA SUPREME COURT DENIAL DECISION)

6. Now, the Appellant is filing this instant Petition for Writ of Certiorari before the Supreme Court of the United States on the grounds that the Appellant has exhausted all other available remedies under the law and that a state court of last resort has decided an important federal question in a way that conflicts with the decision of another state court of last resort or of a United States Court of Appeals. For the reasons set herein

and rights enumerated under the U.S. Constitution. If an adequate hearing opportunity was provided, the Appellant could have argued that due to errors in Appellant's parole revocation process, the Appellant has not been rightfully entitled to any possible remedies with the recommendation of his PVDMI results. Further, it is also unclear as to why a copy of his CDCR form 1500 was not included in the court filing(s) prior to the parole recommendation hearing. Although the Parole Violation Report was included, the recommendations from a PVDMI that was utilized prior to the hearing was not. Moreover, it was alleged on the PVR that intermediate sanctions were considered. However, the Appellant could have maintained that this is untrue and immediate sanctions were not even listed in the report.

I. PRAYER(S):

21. In view of the above, it is humbly requested before this honorable Court that the Court grants this writ and the requested relief in favor of Appellant and against the Respondents.
22. Further, it is requested that this Court overrules the Trial Court Order, the Appellate Court Decision, the Petition for Rehearing Decision and the Denial Decision from the CA Supreme Court for violating the Appellant's mandatory and constitutionally guaranteed due process rights.

23. Any other relief, which this honorable Court deems fit and proper, may also be granted to the Appellant. This petition for a Writ of Certiorari should be granted.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "O. Robinson", written in a cursive style.

/s/ Olyric Robinson

Olyric Robinson - E53822
San Quentin State Prison, 3-n-3
San Quentin, CA, 94972
Appellant, Pro Se

Date: June 16, 2023