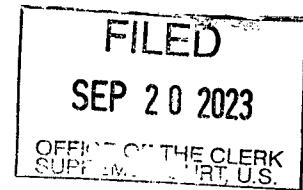


No. 23-5690 ORIGINAL

IN THE



SUPREME COURT OF THE UNITED STATES

AZHAR LAL — PETITIONER
(Your Name)

vs.

UNITED STATES OF AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEAL FOR THE NINTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Azhar Lal CDCR# H-56993
(Your Name)

SVSP P.O. Box 1050
(Address)

Soledad, California. 93960
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

- 1) Does a Foreign National have standing in the U.S. District Court to bring challenges for violations of the law of nations or treaties of the United States pursuant to 28 USCS §§ 1350, 1350(a) & 1331?**

- 2) If so, were Petitioner's challenges frivolous, malicious and fail to state a claim?**

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:

**HENRY CATTO; JAMES BAKER; STEVE WHITE; DAVID P. DRULINER;
FRANK DALE; GOEFFREY LAUTER; GOEFFREY WINFORD; ROBERT SPRINGER;
ROBERT M. ANTHONY; DALLOSTA DELORAS; LES MURPHY; RICHARD CLARK;
RICHARD GUNN**

RELATED CASES

**Lal v. United States of America et al, No. 20-cv-349, U.S.
District Court for the Eastern District of California. Judgment
entered on Nov. 10, 2022.**

**Lal v. United States of America et al, No. 22-16907, U.S. Court
of Appeals for the Ninth Circuit. Judgment entered on
June 28, 2023.**

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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 is unpublished.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 H 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.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was June 28, 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 _____. A copy of that decision appears at Appendix _____.

A timely petition for rehearing was thereafter denied 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. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

THE CONSTITUTION OF THE UNITED STATES OF AMERICA

We The People of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our prosperity, do ordain and establish this Constitution for the United States of America.

Article III

Section 1. The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

Section 2. The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; -to all cases affecting ambassadors, other public ministers and consuls; -to all cases of admiralty and maritime jurisdiction; -to controversies to which the United States shall be a party; -to controversies between two or more states; -between a state and citizens of another state; -between citizens of different states; -between citizens of the same state claiming land under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens or subjects. --- In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the Supreme Court shall have original jurisdiction. In all other cases before mentioned, the Supreme

Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make. --- The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed.

Article IV

Section 1. Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

Article VI

All debts contracted and engagements entered into, before the adoption of this Constitution, shall be valid against the United States under this Constitution, as under the Confederation. --- This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding. --- The Senators and Representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

AMENDMENTS TO THE CONSTITUTION

AMENDMENT I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably assemble, and to petition the government for a redress of grievances.

AMENDMENT IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

AMENDMENT V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy in life or limb; nor shall be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

AMENDMENT VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state

and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

AMENDMENT VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right to trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

AMENDMENT VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

AMENDMENT IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

AMENDMENT X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

AMENDMENT XIV

Section 1. All persons born or naturalized in the United States,

and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

28 USCS § 1350 Alien's Action For Tort

Section 1350 provides: The district court shall have original jurisdiction of any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States.

28 USCS § 1331 Federal Question

Section 1331 provides: The district court shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

STATEMENT OF THE CASE

Petitioner is a state prisoner proceeding pro se without counsel in a petition for writ of certiorari. In a Pro Se action the Court must construe the Petitioner's pleadings even more so liberally. See *Hughes v. Rowe*, 499 U.S. 5, 9-10, 101 S.Ct. 173, 175, 66 L.Ed.2d 163 (1980)(per curiam).

Please take Judicial Notice that Petitioner filed a "notarized" tort application pursuant to 28 USC §§ 1350 & 1350 and 28 USC § 1331 (principally upon § 1350 Alien Tort Claims Act) in the U.S. District Court. Petitioner brought the following six challenges:

- 1) Petitioner suffered an illegal extradition;
- 2) One of the two U.S. Marshals was substituted with a Sacramento Police Officer who had investigated the homicide to bring Petitioner back from London who planted on Petitioner person similar brand of cigarettes that were collected from the crime scene;
- 3) A document falsified Petitioner's nationality so that once he was detained in the United States this same Sacramento Police Officer could use that as an excuse to not notify Petitioner about his Vienna Convention rights depriving him of consular assistance;
- 4) The charges were escalated against Petitioner after they already grounded during the extradition proceedings in the United Kingdom;
- 5) Petitioner received an unfair State trial and;
- 6) Petitioner did not receive a first appeal as of right.

Thereafter, Petitioner did not consent to the assignment of the Magistrate Judge in this action.

The Magistrate Judge upon screening the tort application refused to allow Petitioner standing upon the Federal Statutes he had invoked pursuant to 28 USC §§ 1350, 1350(a) and 1331 and instead

invoked it's own jurisdiction pursuant to 42 USC 1983 and then demanded pursuant to Rule 8(a) of the Fed. R. Civ. P. that Petitioner reduce his complaint down from 50 pages to 25, to a short narrative and recommended that Petitioner remove his exhibits. See APPENDIX-M for the Magistrate's Findings dated May 2, 2020.

Petitioner then filed objections dated October 4, 2020 for the Magistrate forcing it's own jurisdiction pursuant to 42 USC 1983 upon Petitioners application and reminded the Magistrate that it had a duty and moral obligation to explain why Petitioner could not bring his challenges pursuant to 28 USC §§ 1350, 1350(a) & 1331 and also informed the Magistrate that Petitioner also sought as an alternative the All Writs Act & Rule 60(b) of the Fed. R. Civ. P. due to the miscarriage of justice involved of actual innocence so that it could correct it in the interests of justice. See APPENDIX-L for Petitioners objections dated October 4, 2020.

On October 19, 2020 the Magistrate then ordered (in pertinent parts at Pages 4 - 5):

Plaintiff also argues that the court improperly forced him into jurisdiction pursuant to 42 USC 1983. The court notes that plaintiff's original complaint was construed as a civil rights complaint pursuant to § 1983 because plaintiff sought damages from various government employees for false arrest and prosecution in violation of various amendments. (See ECF No. 1 at 1.) Section 1983 provides:

Every person who, under color of [state law]...subjects, or causes to be subjected, any citizen of the United States... to the deprivation of any rights, privileges, or immunities secured by the Constitution...shall be liable to the party injured in an action at law, suit in equity, or other proper proceedings for redress.

42 USC § 1983. There is nothing contained in the court's screening order indicating that plaintiff cannot bring his original claim. Id. See APPENDIX-K for the Magistrate's Findings dated October 19, 2020.

When Petitioner amended his tort application down to 23 pages

the Magistrate on January 3, 2022 found that Petitioner's application exceeded the Rule 8(a) 25 page limitation; Petitioner could not bring new challenges under the Alien Tort Statute citing Sosa v. Alvarez-Machain; Petitioner was barred by Heck and; because Petitioner failed to state a claim his action be dismissed with prejudice. See APPENDIX-J for Magistrate's Findings dated January 3, 2020.

On May 25, 2023 Petitioner timely filed objections that the Magistrate abused it's discretion for erroneously alleging: it could not correct a claim of actual innocence; forcing it's own jurisdiction upon Petitioner's tort; forcing Rule 8(a) upon the tort when Rule 8(a) does not apply to fraud and mistake; dismissing the action with prejudice for failure to state a claim including for not receiving a favorable termination; Petitioner brought new claims prohibited by Sosa v. Alvarez-Machain; for not enforcing contractual obligations in extradition; for not ordering an investigation and for not appointing counsel for an indigent prisoner when the action was complex with possible merit. See APPENDIX-I for Petitioner's Objections dated May 25, 2022.

The District Judge upheld the Magistrate's findings and concluded that Petitioner failed to state a claim and that Petitioner did not have standing to bring his tort application pursuant to 28 USC §§ 1330, 1330(a) or 1331. See APPENDIX-H for the District Judge's Findings dated November 9, 2022; Entering Judgment on November 10, 2022 and denying Reconsideration on January 22, 2023.

Petitioner timely filed a notice of appeal and on December 13, 2022 the Ninth Circuit Court of Appeals ordered a Time Schedule for Briefing which is attached to APPENDIX-G

On January 19, 2023 Petitioner filed a motion for appointment of counsel and his *informa pauperis* application both of which are attached to APPENDIX-F.

On February 6, 2023 the Ninth Circuit Ordered a Stay on the Briefing Schedule until Petitioner's appointment of counsel and informa pauperis applications are heard "separately." See APPENDIX-E for this Ninth Circuit Court Order dated February 6, 2023.

On February 28, 2023 Petitioner filed objections that his applications not be separated because the appointment of counsel application with the informa pauperis motion warrant the appointment of counsel. See APPENDIX-D for Petitioner's Objections dated February 28, 2023.

On April 11, 2023 the Ninth Circuit then Ordered: That after a review of this appeal that it may be frivolous. Therefore, Petitioner can either: (1) file a motion to dismiss this appeal or (2) file a statement explaining why this appeal is not frivolous and should go forward. See APPENDIX-C for this Ninth Circuit Court Order dated April 11, 2023.

In Petitioner's STATEMENT THAT APPEAL SHOULD GO FORWARD Petitioner stated:

This action is not frivolous because Appellant brought challenges for violations of the law of nations and/or treaties of the United States pursuant to 28 USC §§ 1350 & 1350(a) including the procedures demanded by Rule 9 of the Federal rules of Civil Procedure in order to prove those challenges, accordingly, Your Honor.

These Federal statutes 28 USC §§ 1350 & 1350(a) are specifically designed to bring challenges if a treaty of the United States is breached upon and Rule 9 of the Federal Rules of Civil Procedure demand that Appellant prove his challenges, accordingly, Your Honor.

However, the district court below assigned it's own jurisdiction and standing pursuant to 42 USC 1983 to Appellant's application and then demanded pursuant to Rule 8(a) of the Federal Rules of Civil Procedure that Appellant narrow down the complaint down to a short narrative from 50 pages to 25. Appellant then narrowed down his application to 23 pages, which he was not required to do so under Rule 9.

However, the district court still alleged that Appellant did did not comply with Rule 8(a) and further alleged that Appellant did not state a claim, and this now has become a dispute that this Honorable Court correct and cure.

Because this Honorable Court must interpret the federal statute invoked by the Appellant 28 USC §§ 1350 & 1350(a) correctly by giving every word in that statute it's proper meaning.

United States Supreme Court Justice THOMAS, J. declared in Nestle USA, Inc. v. Doe, 141 S.Ct. 1931, 1937, 210 L.Ed.2d 207, 213 (2021):

Originally passed as part of the Judiciary Act of 1789, the ATS provides jurisdiction to hear claims brought "by an alien for a tort only committed in violation of the law of nations or a treaty of the United States." 28 USC 1330. If, for example, a treaty adopted by the United States creates a tort-related duty, federal district have jurisdiction to hear claims by an alien for a breach of that duty. Id...

Therefore, if a Treaty of the United States was breached it must be corrected and cured, accordingly, Your Honor. Thank You. See APPENDIX-B for Petitioner's Statement That Appeal Should Go Forward.

On June 28, 2023 the Ninth Circuit Court of Appeals Ordered that Petitioner's appeal was frivolous. See APPENDIX-A for the Ninth Circuit court Order dated June 28, 2023.

Leading to Certiorari, next where it will be explained that this Court must exercise it's supervisory power vested in this Court through it's original jurisdiction powers under Article III of the United States Constitution to exercise and establish jurisdiction in this cause of action in order to correct and cure this very important dispute, Respectfully, brought before the United States Supreme Court.

REASONS FOR GRANTING THE PETITION

The principal and importance of standing and jurisdiction invoked in the United States Courts is so basic, elementary and a bedrock foundation of both American and United States Constitutional law to all U.S. citizens, including all prisoners in America similarly incarcerated as Petitioner and to all foreign nationals alike that United States Judges cannot depart from this obligation which is mandatory under their administrative and ministerial duties and all United States Judges must carry out these delegated functions under their oath of office which they swore under the United States Constitution.

Federal courts are bound by limited jurisdiction. See *Kokkonen v. Guardian Life Insurance Co.*, 511 U.S. 375, 377, 128 L.Ed.2d 391, 114 S.Ct. 1673 (1994). Courts have the authority to dismiss actions *sua sponte* for lack of jurisdiction. See *Franklin v. State of Oregon, State Welfare Division*, 662 F.2d 1337, 1342 (9th Cir. 1981) and are required *sua sponte* to examine jurisdiction such as standing, see *B.C. v. Plumas Unified School District*, 192 F.3d 1260, 1264 (9th Cir. 1994). This is because

[n]othing is more jealously guarded by a court than its jurisdiction. Jurisdiction is what its power rests upon. Without jurisdiction it is nothing. Especially at a time when the burden of litigating in the federal courts reaches a peak thought improbable only a few years ago, it is imperative that any attempt to impose upon federal jurisdiction be vigorously discouraged.

See *In re Disciplinary Action Against Mooney*, 841 F.2d 1003, 1006 (9th Cir. 1988)(overruled on other grounds by *Partington v. Gedan*, 923 F.2d 686 (9th Cir. 1991)).

It is "rudimentary law that [a]s regards all courts of the United States...The Constitution must have given to courts the capacity to take it, and an Act of Congress must have supplied it...To the extent that such action is not taken, the power lies

dormant." *Finley v. United States*, 490 U.S. 545, 548, 104 L.Ed.2d 593, 109 S.Ct. 2003 (1989)(Emphasis in original). Therefore, for a federal court to exercise jurisdiction, the case must fall within both a statutory grant of jurisdiction and the confines of Article III of the Constitution, the source of all federal judicial power. The scope of the Court's jurisdiction is "not to be expanded by judicial decree." *Kokkonen*, 511 U.S. at 377 (citing *American Fire & Casualty Co., v. Finn*, 341 U.S. 6,, 95 L.Ed 702, 71 S.Ct. 534 (1951)). The burden of establishing appropriateness of the Court's exercise of jurisdiction lies with the party asserting jurisdiction. See *McNutt v. General Motors Acceptance Corp.*, 298 U.S. 178, 182-183, 80 L.Ed 1135, 56 S.Ct. 780 (1936).

Where a complaint seeks recovery directly under the Constitution or the laws of the United States, federal courts are obligated to entertain the suit. See *Bell v. Hood*, 327 U.S. 681-682, 90 L.Ed 934, 66 S.Ct. 773 (1946). An exception to the Court's mandatory exercise of jurisdiction exists, however, where the alleged claim under federal statute "clearly appears to be immaterial and made solely for the purposes of obtaining jurisdiction or where such a claim is wholly insubstantial and frivolous." *Id.* at 682-683. The Supreme Court has stated that dismissal of actions on the basis of subject matter jurisdiction is appropriate when the claim is "so insubstantial, implausible, foreclosed by prior decisions of this Court, or otherwise completely devoid of merit as to not involve a federal controversy." *Oneida Indian Nations of New York v. County of Oneida*, 414 U.S. 661, 666, 39 L.Ed.2d 73, 94 S.Ct. 772 (1974). In contrast, "[a]ny non-frivolous assertions of a federal claim suffices to establish federal question jurisdiction." *Cement Mason Health and Welfare Fund for Northern California v. Stone*, 197 F.3d 1003, 1008 (9th Cir. 1999). Once the court determines a plaintiffs jurisdictional conferring claims are not frivolous and immaterial, there is no further inquiry regarding the merits of the claim for the purposes of jurisdiction. *Hagans v. Lavine*,

415 U.S. 528, 542 fn. 10, 39 L.Ed.2d 577, 94 S.Ct. 1372 (1974).

It was an abuse of both discretion and power vested by Article III and the United States Constitution for the lower courts not allowing Petitioner standing/jurisdiction that he had invoked while bringing challenges for violations of the law of nations and treaties of the United States because the cause of action had merit. Otherwise the district court would have immediately dismissed the action outright.

It was so eloquently, simply and clearly put by United Supreme Court Justice THOMAS, J., in Nestle USA, Inc. v. Doe, 141 S.Ct. 1931, 1937 (2021) If, for example, a treaty adopted by the United States creates a tort-related duty, federal district have jurisdiction to hear claims by an alien for a breach of that duty. Id.

Because it was proven that this duty was breached the lower courts did not allow Petitioner standing and/or jurisdiction to be heard and the lower courts thereby abused their power vested in them through the Constitution of the United States to correct or cure a miscarriage of justice in the interests of justice.

The United States also has a responsibility, moral obligation and a duty to the international community which it leads in the civilized world to correct a tort-related duty if a treaty of the United States is breached as it was declared in Nestle USA, Inc., *supra*.

Petitioner has suffered a miscarriage of justice for 33 years now and in the interests of justice Petitioner is at the Mercy of this Court to allow Petitioner standing and the jurisdiction which he had invoked so that the merits of his claims are heard by this Court under it's original jurisdiction through Certiorari, Including Article III of the United States Constitution.

Therefore, Petitioner also Respectfully requests that this Court in it's discretion have pro bono counsel appointed when it honors Petitioner's *informa pauperis* application because international (treaty law) is to complex and complicated for Petitioner while his cause of action has standing and possible merit.

RESPECTFULLY SUBMITTED

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

AZHAR LAL A. Lal

Date: SEPTEMBER 20, 2023