No. 24-5676

ORIGINAL

Supreme Court, U.S.
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IN THE

SUPREME COURT OF THE UNITED STATES

HENRY ALTAMIRANO — PETITIONER

vs.

UNITED STATES OF AMERICA - RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

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

PETITION FOR WRIT OF CERTIORARI

Henry Altamirano

Lovelock Correctional Center

1200 Prison Road

Lovelock, Nevada 89419

N/A (Phone Number)

QUESTION(S) PRESENTED

1. **Did the Petitioner have the right to have his subject matter jurisdiction claim heard on its merits even though he filed his federal habeas petition pursuant to 28 U.S.C. § 2254 after the one-year limitation period per the Antiterrorism and Effective Death Penalty Act?**

2. **Was the Petitioner denied his Fourteenth Amendment right to due process of law, where the state criminal court lacked jurisdiction to prosecute state crimes; for purposes of Nevada Revised Statutes 171.010 and Senate Bill No. 2,§1 and 3?**

3. **Should the state's lack of jurisdiction to prosecute state crimes which had affected tens of thousands of U.S. citizens across many decades been heard by a federal court despite the potential consequences of correcting this legal wrong?**

LIST OF PARTIES

[x] 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

Court in Question	Docket No.	Case Caption	Date of Judgement
District Court, Clark County, Nevada	C-16-314317-1	Order Denying Defendant's Motion to Correct Illegal Sentence	11/7/2022
The Court of Appeals of the State of Nevada	85708-COA	Order of Affirmance	5/30/2023
United States District Court, District of Nevada	3:23-Cv-00266-MMD-CSD	Order	11/9/2023
United States Court of Appeals for the Ninth Circuit	23-3953	Order	7/2/2024

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PETITION FOR WRIT OF CERTIORARI

Henry Altamirano (hereinafter "Petitioner") petitions a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit, rendered in his Application For Certificate of Appealability, which affirmed the denial by the district court of his 28 U.S.C. § 2254 petition for a writ of habeas corpus.

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 N/A 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 B4 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 C 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 state district appears at Appendix D 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 July 2, 2024.

☑ 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).

☑ Notification pursuant to 28 U.S.C. § 2403 (b) and R. Sup. Ct. Rule 29.4 (c) has been made.

☐ 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 Fourteenth Amendment to the United States Constitution provides in relevant part :

"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 within its jurisdiction the equal protection of the laws."

The *Nevada Revised Statutes* was adopted and enacted by the 48th Session of the Legislature of the State of Nevada in 1957. Prior to this, upon completion of the revision of the statutes text in December of 1956, a decision had to be made: Would the new NRS scheme be enacted as law or would it merely adopt the revised statutes as evidence of law?

The powers that be decided that the enactment of the revised statutes as *law,* rather than evidence of the law, would be the more desirable course of action [App. K1]

Accordingly, the *Nevada Revised Statutes* was submitted to the 48th Session of the Legislature in the form of a bill providing for its enactment as *law* of the State of Nevada. This Bill, *Senate Bill No. 2* ("SB2"), was passed without amendment or dissenting vote, and on January 25, 1957, was approved by the state

governor. Section 1 of SB2 states: "Enactment of Nevada Revised Statutes. The Nevada Revised Statutes, being the statute laws set forth... are hereby adopted and enacted as *law* for the State of Nevada." [App. E].

With Section 1's provision of enacting the NRS statutes as law, logically Section 3 *repeals* all prior laws: "... all laws and statutes of the State of Nevada of a general, public, and permanent nature enacted prior to January 21, 1957, hereby are *repealed*." [App E1].

Enacted and adopted within this new NRS scheme was *NRS 171.010* which related to the jurisdiction of offenses committed in the State of Nevada and held criminal defendants "subject to criminal prosecution." *NRS 171.010* properly is entitled; "Local *Jurisdiction* Of Public Offenses." [App. F].

Herein (SB2 §1, §3, and NRS 171.010), lies the foundation of Petitioner's Fourteenth Amendment Constitutional claim.

STATEMENT OF THE CASE

The court of appeals in this case held that Petitioner's APPLICATION FOR CERTIFICATE OF APPEALABILITY ('COA") did not show that jurists of reason would find it debatable whether his petition states: (1) "a valid claim of the denial of a constitutional right" or (2) "whether the district court was correct in its procedural ruling" under *Slack v. McDaniel*, U.S. 473, 484 (2000). [App. A].

This judgment was rendered even though the Petitioner's COA petition clearly articulated a Constitutional claim, with supporting facts on every ground, where the sentencing court lacked jurisdiction to prosecute state crimes. More specifically, the Nevada state district court sentenced Petitioner pursuant to a state law that was repealed by an act of legislation which deprived the court of jurisdiction.

NRS 171.010 is cited by the Nevada Supreme Court ("NSC") as the cognizance, in addition to Article 6, Section 6 of the Nevada Constitution, to impose sentence and punish defendants in criminal cases and is the source of the state court's subject matter jurisdiction and jurisdiction over any individual who commits any crime within its borders. [App. I1, F]

Upon examining the legislative history of *NRS 171.010*, located in brackets immediately following its descriptive paragraph [App. F1, cF. App. F], is shown the authoritative statutes [1911 Cr. Prac.§ 58:RL 6908: NCL § 10705] which is derived from the statutes of Nevada.

According to this informational bracket, it is the source of its legal authority to validate its existence [App. K2][1]. The interpolation following the text of *NRS 171.010* means that *NRS 171.010* was derived from section 58 of the Crimes and Punishment Act of 1911 and subsequently appeared in Revised Laws of Nevada (1912) section 6908, and Nevada Compiled Laws (1929) section 10705. Interestingly,

[1]The complete "Legislative Counsel's Preface" can be found at www.Leg.State.NV.US-division-LCB-index.html

missing from this informational bracket is the 1957 act (SB2) which enacted and adopted *NRS 171.010.*

Contrary to this, these statutes of Nevada have been *repealed* in 1957 by Laws of the State of Nevada, Senate Bill No. 2 Chapter 2. Section 3 of SB2 states in pertinent part:"... all laws and statutes of the state of Nevada of a general, public, and permanent nature enacted prior to January 21, 1957 hereby are *repealed.*

Since then, no new enacted legislative acts have been passed by the Nevada legislature to establish the statutory authority for N*RS 171.010* during or after 1957. Nowhere in this NRS does it indicate by specific provisions that the repealed, antiquated Statutes of Nevada correlating to this NRS are to be continued.

As a result, *NRS 171.010* is invalid, void, and the state district court lacked jurisdiction to prosecute state crimes and to impose sentence on Petitioner for alleged crimes within the borders of Nevada. The court may exercise judicial power only when it has a valid statutory scheme and subject matter jurisdiction *Rhode Island v. Massachusetts*, 37 U.S. 657, 718 (1838). To impose a sentence violates the Petitioner's right to due process of law guaranteed by the Fourteenth Amendment to the U.S. Constitution. *NRS 171.010* has no supporting source statutes to sustain it because they were all repealed.

Therefore, the state district court overstepped the bounds of constitutional authority by extrajudicial action. It cannot validly sentence this Petitioner pursuant

to a statute *not* in effect at the time of the offense. *NRS 171.010* was repealed by legislation which deprived the court of jurisdiction to prosecute state crimes within the borders of Nevada.

The Nevada state district court sentenced Petitioner for two (2) "NRS" violations, each of which contained supporting source statutes that were repealed by state legislation. This fact also underlies the Fourteenth Amendment claim as a sentence based on two defective statutes deprives the state court of subject matter jurisdiction.

The Petitioner's sentencing is based on the following two NRS violations: NRS 201.230 and NRS 193.330. [App. G]. However, both of these Counts are at variance with the controlling source Nevada statutes, in that they are based on invalid statutes that contain a fatal defect. In this case, the two above named NRS violations are based on repealed statutes depriving them of a Foundational Authority.

Here, after simply reading the plain and literal *repealing* language of SB2 Section 3 [App. E1], juxtaposed with the NRS sentencing statutes historical sections, reasonable minds can conclude that there is no clear indication of statutory authority for each Count as the supporting source laws are repealed.

According to the historical section of Count 1 NRS 201.230, its foundational source statutes are composed of: Nevada Revised Statutes 1925, p.17, 1943 Nevada Compiled Laws section 10143, and Statutes of Nevada 1947. [App. L]. However,

legislation cannot amend acts or bills that have been repealed. "Revision in a legislative sense can only apply to a measure, bill, or law then having existence, life, and force, and cannot, in the very nature of things, apply to a nullified or repealed act." *Maclean v. Brodigan*, 41 Nev. 468,475 (1918).

Likewise, Count 2, NRS 193.330, contains the same inherent defects which make it nullified, invalid, and at variance with the supporting source laws as they have been repealed by SB2 Section 3 as detailed in Petitioner's COA application.

Courts cannot sentence defendants who did not commit a crime. If a criminal statute is unconstitutional, then the courts lack subject matter jurisdiction and cannot proceed to pronounce sentence to a crime. 22 *Corpus Juris Secundum,* "Criminal Law", section 157, p. 189; citing *People v. Katrinak*, 185 Cal. Rptr. 869(1982)".

If there are no valid statutes charged against this Petitioner, there is nothing that can be deemed a crime and without a crime, there is no subject matter jurisdiction. To impose sentence with no subject matter jurisdiction violates the Petitioner's right to due process of law guaranteed by the Fourteenth Amendment to the U.S. Constitution.

Furthermore, the Petitioner's Fourteenth Amendment claim is supported by the fact that the Nevada Supreme Court has effectively struck down the entire NRS scheme.

In 1957, the Forty-Eighth Session of the Nevada Legislature passed an act entitled: Senate Bill No. 2 - Committee on Judiciary, Chapter 2. The legislative intent of this act was stated in the provision of Section 1 as follows:

> Section 1. Enactment of Nevada Revised Statutes. The Nevada Revised Statutes, being the statute laws set forth after section 9 of this act, are hereby adopted and enacted as *law* of the State of Nevada. [App. E].

The clear and plain language of this provision intended that the NRS was enacted as *law* of the State of Nevada. There is no ambiguity to this provision.

However, the NSC and the state court of appeals have contradicted Senate Bill 2, Section 1 in numerous rulings and decreed that the NRS scheme is *not* the law of the State of Nevada. In numerous case laws as follows:

> *Taylor v. State,* 472 P.3d 195 (2020) [App. I],
> *Olson v. State*, 133 Nev. 1058 Unpub. LEXIS 699 (2017),
> *Hunt v. State*, 133 Nev. 1025 Unpub. (Nev. 2017),
> *Cesar Victor v. State*, LEXIS 269 Unpub. (Nev. 2017),
> *Peck v. State*, LEXIS 867 Unpub. (Nev. 2017),
> *Escamilla v. State*, 133 Nev. 1005 Unpub. (Nev. 2017),
> *Bryant v. State*, 2021 Nev. App. Unpub. LEXIS 114 (2021),
> *Krig v. State*, 125 Nev. 1054, 281 P.3d 1193 Unpub. (2009). [App. H].

The NSC and appellate courts have clearly ruled that the NRS scheme is not the law of the State of Nevada and is opposed to "Senate Bill No. 2" Section 1 as the NSC opines in the above case laws that the NRS scheme "merely constitutes of codified/reflective version of the statutes of Nevada." Not to confuse or conflate Nevada's actual law, the NRS scheme is *not* the law of Nevada. "The actual laws of Nevada are contained in the statutes of Nevada." *Olson*, supra.

The Petitioner's Order of Affirmance confirms the highest court's published decisions that the NRS scheme is *not* the law of Nevada. "The Nevada Revised Statutes *simply reproduce* those laws as classified, codified, and annotated by the Legislative Counsel." [App C1].

If the NRS sentencing statutes, in this Petitioner's case, are *not* the law as declared and published by the Nevada Supreme Court, then it violates the Petitioner's due process of law as guaranteed by the Fourteenth Amendment to the U.S. Constitution by implicating Petitioner's Fair Notice of what is lawfully prohibited. To arrest, indict, convict, and sentence this Petitioner on what is *not* law is illegal and unconstitutional.

According to the Order of the United States District Court (District of Nevada), the Antiterrorism and Effective Death Penalty Act ("AEDPA") establishes a one-year limitation period for state prisoners to file a federal ~~have as~~ habeas petition pursuant to 28 U.S.C. § 2254. [App. B2]. Based on the AEDPA, the district court ordered Petitioner to show cause as to why his 2254 habeas petition should not be dismissed with prejudice as untimely.

In the Petitioner's reply to the cause and prejudice order, Petitioner emphasized that showing cause and prejudice on his particular grounds was inapplicable. He submitted that his subject matter jurisdiction claim should be heard on their merits based on: (1) Sister-court case law; (2) its own 9th Circuit Court case law; (3) U.S. Supreme Court case law; and Federal Rules of Civil Procedure.

The Petitioner's reply to the show cause order stated the grounds in his petition challenge the *jurisdiction* of Nevada courts to utilize the NRS scheme and are not subject to the one-year limitation period as explained in *Kelly v. US,* 29 F.3d 1107, 1113-1114 (7th Cir. 1994) "When challenging a jurisdiction error the defendant need *not* show cause and prejudice..." quoting opinion *US v. Broadwell,* LEXIS 6366 (9th Cir. 1992). The court's jurisdiction *cannot* be waived. *Freytag v. Commissioner of Int. Revenue*, 501 US 868 (1991) (discussing the "non-waivability" of lack of subject matter jurisdiction). Arguments attacking a court's subject matter jurisdiction can neither be waived nor forfeited. *Class v. US*, 138 S.Ct. 798, 200 L. Ed. 2d 37 (2018). Rule 12 (h) (3) of the Federal Rules of Civil Procedure: "If the court determines at any time that it lacks subject matter jurisdiction, the court must dismiss the action." [App, M1; M2].

Despite this argument, the U.S. District Court ruled that a jurisdiction issue (lack thereof) cannot be used to avoid the application of the limitation period and such an argument is without merit. [App, B4]. Thus the petition was dismissed with

prejudice as untimely and further ordered that Petitioner is denied a COA, as jurists of reason would not find the court's dismissal of the petition as untimely to be debatable or wrong.

The Petitioner appealed to the United States court of appeals and on July 2, 2024 his request for a COA was denied. [App. A]. The court affirmed the lower court's reasoning that appellant has not shown that "jurists of reason would find it debatable whether the petition states a valid claim of the denial of a Constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

REASONS FOR GRANTING THE WRIT

This Court should grant certiorari for the following four reasons: (1) The decision of the lower court was erroneous; (2) The lower court's decision is in conflict with the decisions of another appellate court and of the United States Supreme Court; (3) The severity of Petitioner's sentence warrants a second review; (4) Having the Supreme Court decide the questions involved is of national importance.

I. The Decision of the Lower Court Was Erroneous

The court of appeals in this case held that the Petitioner did not have a right to have his subject matter jurisdiction claim heard on its merits affirming the district court's ruling that such a claim could not approach the AEDPA's limitation period. However, this decision was flawed.

A United States court has both the authority and the duty to listen to a state prisoner who claims that the state has not treated him with due process of law. *Johnston v. Marsh,* 227 F.2d 5;28 1955 U.S. App. LEXIS 3232. In fact, he is entitled to avail himself of the writ of habeas corpus in challenging the constitutionality of his custody. *Blackledge v. Allison*, 431 U.S. 63, 97 S.Ct. 1621, 52 L. Ed. 2d 136 (1977).

The lower court's reasoning that a jurisdictional defect claim can be rejected based on timeliness (cause and prejudice, App. B3) contradicts all established jurisprudence on the matter. "Cause and prejudice" as a requirement is *inapplicable* where the alleged defect is jurisdictional. *United States v. Frady*, 456 U.S. 152, 182-83,. 71 L. Ed. 2d 81b, 102 S.Ct. 1584 & nn. 5&6 (1982). "Every federal appellate court has a special obligation to satisfy itself not only of its own jurisdiction, but also that of the lower courts in a cause under review." *Bender v. Williamsport Area School Dist.*, 475 U.S. 534, 541, 89 L. Ed. 2d 501, 106 S. Ct. 1326 (1986). This Court suggests that well known procedural obstacles could prevent challenges to state convictions, but issues of subject matter jurisdiction are *never* waived. *McGirt v. Oklahoma*, 140 S. Ct. 2452 July 9th, 2020.

Lack of subject matter jurisdiction may be raised at any time because this type of defect

Go to the inherent power of the court and cannot be waived or forfeited. *US v.*

Harrison, 552 F. Supp. 2d 1108 (2008). It can be raised at any stage of a criminal proceeding, it is never presumed, but must always be proved, and it is never waived by a defendant. *US v. Rogers*, 23 E. 658 (1885).

Because there exists sound reasons to approach the AEDPA limitations period under 28 U.S.C. § 2254 and because to do so is faithful with Congress' intent and habeas jurisprudence, see e.g. *Johnson v. Zerbst*, 304 U.S. 458, 82 L. Ed. 1461, 58 S. Ct. 1019 (1938) (the original purpose of the writ of habeas corpus was to allow relief where a defendant was convicted by a court that lacked jurisdiction), the decision of the lower court to deny Petitioner's COA application which is based on a Constitutional subject matter. jurisdiction claim was erroneous.

II. The Decision of The Lower Court Conflicts with the Decision of Another Appellate Court

There is a conflict among the Circuits on the exact point involved in this case. The Ninth Circuit denied Petitioner's request for a COA which was based on a court lacking "jurisdiction"

The Petitioner did not raise this argument on direct appeals. [App. B3]. The Petitioner therefore was required to show cause and prejudice throughout all his proceedings beginning at the state district court. In all these proceedings his jurisdictional claim was considered "waived" for not raising his ground on direct appeal or before the AEDPA deadline.

However, the Seventh Circuit holds just the opposite in *Kelly v. U.S.*, 29 F.3d

1107 (7th Cir. 1994). In *Kelly*, the defendant filed a motion under 28 U.S.C. § 2255, challenging his sentence based on his trial court "*lacked jurisdiction*" to impose an enhanced sentence. The U.S. district court refused to hear the motion. The defendant did not make his argument at trial or on direct appeal. The government argued that the defendant failed to show cause and prejudice. The district court therefore refused to hear the argument, finding it to have been procedurally defaulted. The court rejected the government's argument and reversed the trial court's dismissal of the defendant's motion and vacated his sentence.

The Seventh Circuit reasoned that the defendant's claim was a jurisdiction requirement and the trial court' s jurisdiction could not be waived under any grounds. The court also rejected, for the same reasons, the government's argument that the defendant failed to show cause and prejudice.

The court cited multiple U.S. Supreme Court ("SCOTUS") decisions to support its final decision. The court could not accept the government's argument because it asks the court to ignore SCOTUS' insistence that "a litigant's failure to clear a jurisdictional hurdle can never be harmless," *Torres v. Oakland Scavenger Co.*, 487 U.S. 312, 317 n.3, 101 L.Ed 2d 285, 108 S. Ct. 2405 (1988).

The court cited *United States v. Frady* to reject the government's argument that claims no raised on direct appeal are waived. It reasoned that the point of cause and prejudice is to overcome the waiver, assuming the error in question is a waivable one. However, jurisdictional defects are not. "Cause and prejudice" are

inapplicable where the alleged defect is jurisdictional. *United States v. Frady*, 456 U.S. 152, 182-183, 71 L.Fd 2d 816, 102 S. Ct. 1584 & nn. 5 & 6 (1982)(Brennan, J., dissenting).

The court recounts that for centuries it has been recognized that courts have an obligation, regardless of the arguments advanced to them by the parties, to assure themselves of their own jurisdiction. See *Capron v. Van Noorden*, 6 U.S. (2 Cranch) 126, 127, 2 L.Ed. 229 (1804) ("Here it was the duty of the court to see that they had jurisdiction, for the consent of the parties could not give it."); *Louisville & Nashville R. Co. v. Mottley*, 211. U.S. 149, 152, 53 L.Ed. 126, 29 S. Ct. 42 (1908).

The implication of all this, according to the court, is that questions about the court's jurisdiction cannot be waived. See *Freytag v. Commissioner of Internal Revenue,* 501 U.S. 868, 111 S. Ct. 2631, 2648, 115 L.Ed. 2d 764 (1991) (Scalia J, concurring) (discussing the "non-waivability of lack of subject-matter jurisdiction"). And it further notes, the court has an independent duty to assure itself that its jurisdiction is properly had, and as a result parties can raise jurisdictional defects at *any time.*

Kelly should be the rule.

III. The Severity of Petitioner's Sentence Warrants a Review

On September 27, 2017, the Petitioner was sentenced to life in prison for violating **two** NRS statutes and his Judgment of Conviction was filed on 10/31/2017 [App. G].

The Petitioner felt that he was over-sentenced and began to research the underpinnings of his case and imposed punishment in hopes of uncovering a missed material fact that may mitigate his severe sentence. The Petitioner never expected to learn of a jurisdictional defect which violated the Fourteenth Amendment rights of thousands of U.S. citizens. This Petitioner (and most likely the thousands just mentioned) always presumed that government officials exercise their duties in accordance with the law.

Despite the fact that a litigant can raise a court's lack of subject matter jurisdiction at any time in any U.S. court, state and federal (e.g. *Edwards v. State*, 112 Nev. 704 (1996); *NRS 176.555*; *Newtok Vill v. Patrick*, 2021 U.S. Dist. LEXIS 35139 (9th Cir. 2021); F.R. Civ. P. 12 (h) (3); *McGirt v. Oklahoma*, 591 U.S. —; 140 S. Ct. 2452; 207 L. Ed. 2d 985; 2020 US LEXIS 3554(2020)), Petitioner faced years of state and federal courts turning a blind eye by claiming Petitioner should have raised his subject matter jurisdiction claim on direct appeal, show cause as to why his claim should not be dismissed with prejudice as untimely, show that jurists of reason would see a valid claim and an invalid ruling, and ultimately dismissed his claim and all subsequent appeals.

This claim was brought forth in federal court in the form of habeas corpus section 2254 after the state refused to give Petitioner his day in court. This was the Petitioner's initial federal post-conviction review, not a successive petition, and is entitled to bring a claim to Federal Court to determine whether or not he is being

held unconstitutionally on a *life sentence* in violation of his due process rights as guaranteed by the Fourteenth Amendment to the U.S. Constitution. [App. M2, at 19-26].

The purpose of the writ of habeas corpus is to safeguard a person's freedom from detention in violation of constitutional guarantees, and a prisoner in custody after pleading guilty, is entitled to avail himself of the writ in challenging the constitutionality of his custody. *Blackledge v. Allison,* 431 U.S. 63, 97 S. Ct. 1621, 52 L.Ed. 2d 136 (1977).

The severity of Petitioner's sentence warrants a review.

IV. Having the Supreme Court Decide the Questions Involved is of National Importance

Nevada is unlike the other states. It is a highly transient state. Eighty percent of its population is constantly moving in and out. Culturally, Nevada has been associated with legal gambling, legal prostitution, easy divorce, and social permissiveness. Its highest profile city is a world-wide tourist destination with millions of visitors year after year. Its international airport now serves as a hub for major airlines, including Southwest, and is the tenth busiest air terminal in the nation increasingly serving international travelers; fully one-fifth of all travelers to Nevada in 2017 were international.[2]

Therefore, it is accurate to say that if the State of Nevada lacks jurisdiction to prosecute state crimes that occurred after January 21, 1957, it is not only of local

[2] *The Sagebrush State,* Bowers, M. University of Nevada Press, 2020(p. 175).

and national importance for this Court to grant certiorari, but of *international* importance. The state and federal courts have perpetuated a flawed criminal statute system for almost seven decades violating the protected Constitutional rights to due process of law of thousands upon thousands.

Protecting the civil rights of its citizens has been a challenge for this state, "Nevada... has a mixed and sometimes *pitiful* historical record in protecting the civil rights of its citizens."[3]

And some within the criminal justice system, sadly, have limited faith in the state's highest court, "In a 1994 poll of three hundred attorneys conducted by the state's largest newspaper, the *Las Vegas Review-Journal*, 75 percent indicated that they had only "some" or "not much" confidence in the supreme court."[4]

As a result of the state persecuting state crimes without fundamental jurisdiction, thousands of convictions obtained by the state for crimes involving defendants or victims across several decades are now drawn into question. This is uniform lawlessness at its worst and a grave miscarriage of justice. Our Constitution demands more than the continued use of a flawed criminal justice system.

In our nation's Declaration of Independence, Thomas Jefferson wrote, "We hold these truths to be self-evidence, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, *Liberty*, and the pursuit of Happiness."

This Petitioner has faith that the *unalienable Rights* of so many, past-present-and future, will be protected. History demonstrates that this Court does not cower away from correcting the errors of state governments. *Ramos v. Louisiana*[5]; *McGirt v. Oklahoma*[6]. The magnitude of correcting a legal wrong has not been an obstacle for our nation's Highest Court. I pray the injustice ends here.

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[3] *The Sagebrush State*, Bowers, M. University of Nevada Press, 2020(p. 34).

[4] *The Sagebrush State*, Bowers, M. University of Nevada Press, 2020(p. 124).

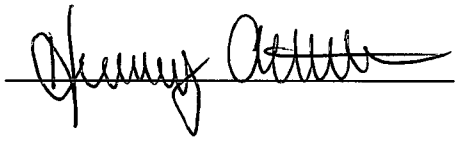
[5] *Ramos v. Louisiana*, 590 U.S. ___, __, -___, 140 S. Ct. 1390, 206 L. Ed 2d. 583 (2020)

[6] *McGirt v. Oklahoma*, 591 U.S. ___, 140 S. Ct. 2452, 207 L. Ed 2d. 985; 2020 U.S. LEXIS 3554 (2020).

CONCLUSION

This petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 9/11/2024