No. 24-7436

ORIGINAL

Supreme Court, U.S.
FILED
MAY 27 2025
OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Hans Reiser — PETITIONER
(Your Name)

vs.

Vang — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Supreme Court of California
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Hans Reiser
(Your Name)

7707 S. Austin Rd.
(Address)

7707 S. Austin Rd.
(City, State, Zip Code)

none
(Phone Number)

QUESTION(S) PRESENTED

In the split between the Federal Courts and the California Supreme Court over whether retaliation exhausts state remedies who is right?

Is a failure to distinguish the right logic for the time constraints for death penalty cases from the right logic for medical neglect cases the flawed reason for the split between applying the Continuing Tort/Injury Doctrine in Federal Tort Cases but not this California State Habeas Corpus?

Are the cognitive errors that AI's make consistent with the Lower Court Decision, and to be avoided by both Humans and AI's?

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:

Note; The Warden of my prison has changed from "Gena Jones" to "Vang". Legally they are both the State of California. Gena Jones is now the Secretary of the California Department of Corrections and Rehabilitation. As a pro per I am uncertain whether I should list Vang or Gena Jones or both. Please consider me to have listed the correct one — I suspect that listing either would be correct as they are both legally the State of California.

RELATED CASES

TABLE OF CONTENTS

INDEX TO APPENDICES

TABLE OF AUTHORITIES CITED

CASES — PAGE NUMBER

STATUTES AND RULES

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 _____ 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[ ] is unpublished.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.

[X] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

[X] reported at In re Reiser, 2025 Cal. LEXIS 1086; 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 _____.

[ ] 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).

[X] For cases from **state courts**:

The date on which the highest state court decided my case was 2/26/25. A copy of that decision appears at Appendix A.

[ ] 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

There are many rights protecting the right to effective access to the Courts, including the right to petition for the redress of grievances, free speech, fair trial, witness tampering laws, plus the inherent authority of the Courts. There is a 300 page A.L.R., plus the case law I cited.

Cruel and unusual punishment clauses of State and Federal Constitutions, and punishment in excess of sentence, and rights afforded by the State apply to whether I am entitled to medical care (see attached petition), but none of that played a role in the decisions of the Lower Courts. I don't expect that you will choose to reach the merits of the case, but if you choose to, please incorporate by reference as much of the attached petition as you have time for, or ask for additional briefing.

STATEMENT OF THE CASE

I hurt my hip playing soccer in prison in 2015. I want it fixed. I am an indigent prisoner prohibited by law from earning the money to fix it. I am legally a ward of the State of California. They still haven't fixed it, despite my unrelenting asking since the injury.

I am crippled, in a wheelchair, and often in torturous pain, especially at night. I have been diagnosed as having Chronic Pain Syndrome by Dr. Centeno (his report is in the attached petition). My Prison PCP told me that can cause personality changes. The medical literature says it can cause reductions in the size of the prefrontal cortex and hippocampus, cause depression, and increase blood pressure which causes its own slew of grave side effects. I feel myself becoming more emotional, and bouts of depression come and go. I want to create a startup after I parole, and before I die a child prodigy who never accomplished anything, but it is worrying when my ability to focus on AI textbooks goes in and out.

I suspected I was being wronged from the day of my injury, but that is very different from having confidence that I would be able to prevail as a proper in a Court of Law given the deference shown by the Law to the judgment of Doctors treating prisoners. That changed when CDCR began repeatedly sending me to Doctors who no longer do hip surgeries for hip surgeries who wrote superb surgical evaluations (attached to the attached lower court petitions, by Dr. Centeno and Dr. Nissen) recommending that I be sent to surgeons who do the surgery I need (a Direct Anterior Approach Ceramic-on-Ceramic Total Hip Replacement).

That was when my bunkie told me that it was simple to win so long as I kept it focused on them sending me to a surgeon who no longer does hip surgeries for a hip surgery, and so I filed. At the time of my hip injury I could not at first get through the guard at the clinic door, then the Nurse would not let me see a Doctor or a specialist or get imaging, then the Doctor would not let me see a specialist or get an M.R.I., then I got an M.R.I. but the wrong specialist, and as the years went by my hip got worse. At the time of my injury a hip repair might have been possible, but now only a hip replacement is feasible because it is bone-on-bone. When I filed there was no longer anyone disputing that I needed a Total Hip Replacement. My PCP deferred to the specialists.

With that change in the disputability of the wrongdoing I filed a habeas corpus petition asking for surgery which seemed like it would be simpler and faster than a §1983 asking for money.

This distinction between the date one suspects one has been wronged, and the date the wrongdoing is added to in a way so outrageous that a case seems clearly winnable, is offered for your pondering. The lower courts held the time gap against me. The Continuing Injury/Tort Doctrine of the Federal Courts would toll the time constraint until I get my hip fixed. See Page v. United States, 729 F.2d 818 (D.C. Cir. 1984)

In the June 30 2023 San Joaquin County Superior Court of California decision I was faulted for the time gap between the injury and my filing, apparently because the Continuing Injury/Tort Doctrine is Federal not State case law (Appendix E). I appealed that to the Third Appellate District Court of Appeal of California, and got a vague denial allowing refiling in the Superior Court. My appeal had clarified some dates, and invoked the Continuing Injury/Tort Doctrine and made a retaliation exhausts state remedies argument, and it was unclear what had motivated allowing refiling. (Appendix D).

I refiled as allowed, now with a full Continuing Injury/Tort Doctrine and retaliation exhausts state remedies dual argument, and was denied by the San Joaquin County Superior Court of California (Appendix C), I appealed and was denied by the Third District Appellate Court (Appendix B), I appealed that to the California Supreme Court and was denied (Appendix A).

All of the denials, all of the State caselaw cited by the denials, and all of the State caselaw that exists so far as I can find, completely ignores Federal Continuing Injury/Tort Doctrine and the Federal Court caselaw that retaliation exhausts state remedies. That is despite my rather extensive arguments in support of it, and my rather desperate pleas that they at least acknowledge the split.

I encourage you to call that the result of consciousness of intellectual guilt. The Federal Courts have it right, and they cannot summon an argument to the contrary, but lack what it takes to admit it. Or an AI wrote the decision, and they never read the petition; you decide if we even need to know which it was.

Since the Lower Courts did not reach the merits of the case I presume you also will not. If I am wrong that will make me very happy - please see the attached petition, and consider asking me for additional briefing. (Appendix F)

Retaliation:

On 2/14/2020 I received from a prison Counselor a Comprehensive Risk Assessment dated 2/10/2020 written by Dr. Tobin and revieved by Supervisor Stacy Thacker, both of the Forensic Assessment Division of the Board of Parole Hearings. It is an important part of the parole suitability determination process. It is Appendix G.

You are not asked to reach the issue of whether the diagnosis was correct regarding myself, or litigators generally. I provide this information so that you may assess whether the use of documents, required to be produced for effective access to the Courts, as evidence of unsuitability for parole, is per se illegal by a great many different arguments.

The Comprehensive Risk Assessment used the alleged "tone" of my "voluminous inmate appeals as evidence of my "sense of entitlement and arrogant attitudes" evidencing "other Specified Personality Disorder, Narcissistic Features" and said "The DSM-5 notes that narcissism is often associated with reactions of 'disdain, rage and counterattack' in the face of criticism or humiliation, which may have played a role in the life crime,"

She did say that I do "not meet the full criteria for Narcissistic Personality Disorder", but not why not. For someone who spent 13 years before prison doing charitable/scientific work, it seemed a remarkable diagnosis. I do have many other flaws, not in the report for the most part.

Before the report I was warned by many prisoners that if I write a lot of prison grievances it will be complained of and used against me at my parole hearing. I ignored their warnings because it seemed so clearly illegal to me that I could not believe they would do it. Since the parole hearing at which I received a 5-year denial I have not filed any new prison grievances. Paroling is more important than accessing the courts. Perhaps you will allow myself and others to do both. I appear before you and ask.

I did go through the prison grievance process and exhaust state remedies before 2020 and the Comprehensive Risk Assessment; see a select few of them attached to the petitions to the Lower Courts. (Appendix F)

REASONS FOR GRANTING THE PETITION

The heart hesitates to say that a death penalty case should have a shorter time constraint than a medical neglect case, but the logic for their time constraints is completely different. It appears that no one has ever said that, and so I ask you to.

I ask you to make the time constraints for non-death-penalty habeas corpi, such as medical neglect and parole denial cases, consistent with the Continuing Tort/Injury/Treatment Doctrines instead of being consistent with death penalty time constraints.

Why should I be penalized for filing a habeas corpus which does not individualize blame, instead of a tort case for money, when trying to get surgery quickly? I am in tortuous pain at night, and I prioritized an end to the pain over money.

Please see the discussion of Continuing Injuries in Page v. United States, 729 F.2d 818, 234 U.S. App. D.C. 332 (D.C. Cir. 1984) and the cases it cites. This pro per will let those Justices make his argument for that Doctrine. Nothing in their logic fails to apply to non-death-penalty habeas corpi, is my only addition.

Please see 33 Cal. App. 5th 1199 In re Palmer (2019) for why the Continuing Injury/Tort Doctrine should be applied to parole denial habeas corpi, though they don't call it that or cite it. The lack of explicitness by the California Supreme Court regarding whether their reversal of Palmer (supra.) applied to its handling of time constraints which they did not discuss was unfortunate for me as I interpreted it as not doing so until my case. I was a fool who thought this and another medical neglect habeas would be simple, and I delayed filing my more complicated I thought parole denial habeas corpi until I filed the medical neglect habeas corpi.

Please consider Palmer's (supra.) argument that I am the one harmed by my delay in favor of this medical neglect habeas, and for that reason there is no societal interest in penalizing me.

I will mostly let the existing Federal caselaw speak to why retaliation exhausts (or equivalently, renders unavailable) state remedies (see McBride v. Lopez, 807 F.3d 982 (9th Cir. 2015) for the 9th Circuit version), the differences between circuits are not relevant to my case). [A technicality: I experienced actual retaliation in the form of having my use of state remedies used as evidence of my unsuitability for parole in a Comprehensive Risk Assessment, and I considered the actual retaliation to constitute a threat of future retaliation. See the habeas attached for details.] I'll just say that if you want retaliation for seeking effective access to the Courts to stop, then you must issue a ruling with teeth in it. Otherwise it will just keep on happening. Currently retaliation in the prisons of America is the habitual expected norm. It works - most prisoners don't file prison grievances because of it. Saying that it is illegal to use access to the courts required prison grievances as evidence of increased risk in Comprehensive Risk Assessments prepared for use in Parole Hearings will have impact. I have heard that sometimes the commissioners do it directly, so I suggest barring doing it in any stage of Parole Hearings.

For the California Supreme Court caselaw on this, see In re Dexter (1979) 25 Cal. 3d 921, 925-926 cited by the California Supreme Court in this case, and In re Muszalski (1975), 52 Cal. App. 3d 500, 503-508 cited by the Appellate Court in this case, and my case. Notice how not one of those cases mentions the word "retaliation", or "Continuing Tort", "Continuing Injury", "Continuing Treatment", or that Federal Courts disagree, not even in my case, despite my raising all of that and asking them to at least acknowledge and discuss the split. See the attached petitions I sent them.

AI Use Needs Guidance By You:

Humans are able to employ "reasoning" to overcome what AI Researchers call "the curse of dimensionality". Google can tell you more about that, and can likely provide nice illustrations depicting the unnecessary to this case technical details of. For our purposes, simply understand that if what is right in the general case has lots of instances to train-on/experience/read, but is contrary to what is right in a specific case for which there are few-to-none instances to train-on/experience/read, some Humans but not AI's can employ reasoning to overcome that problem. The AI's will fail to distinguish the more specific cases with few-to-none instances of to learn from.

From this it is reasonable to infer that Large Language Model "stochastic parrot" style AI's would have trouble: 1) narrowing existing law, 2) recognizing and resolving splits, and 3) applying reasoning developed in one area of the law (e.g. Federal Court Torts) to another area of the law (e.g. State Habeas Corpus Petitions).

The percentage of Humans who have the same difficulty for the very same reasons as the AI's I leave for others to say.

Disclaimer: I am a prisoner who reads textbooks on AI's but lacks direct access to the AI's used in the legal profession.

If an AI is told to prefer State Law, and all the existing State Law ignores the split, or it isn't trained on Federal Law, that could exacerbate the problem. On the other hand, an AI could be encouraged to learn from more than U.S. caselaw, and make suggestions from that where the differences do not stem from differences in statutes.

Let us suppose that an AI was used to write a first draft of a decision, but a Human read it for errors before signing it without reading the petition itself. If that decision was the Supreme Court of California Decision in this case (Appendix A) then the Human would have no clue that the AI had erred. You could read all the decisions in this case, and have no idea that any error was made, no idea that any split had been claimed, no idea that any narrowing had been asked for, no idea that any retaliation discouraging exhaustion was alleged.

For now, please bar the use of AI's for cases that that ask for narrowings, split resolvings, or offer novel arguments, even if reviewed by a Human. Since this will be hard to enforce, please consider asking that all

requests for narrowings, split resolvings, novel arguments, etc., be explicitly acknowledged in decisions.

Please also consider asking the Humans to avoid these problems, and to make an effort to avoid the "curse of dimensionality" affecting their thinking. Encourage them to have an AI critique their decisions, after they read the petitions and write their first draft.

Please offer balance: Humans have very real and potent problems in how they craft decisions. The potential for AI's to avoid the problems that Humans have in feeling threatened by intelligence and education, and the many flavors of prejudice affecting decisions, is extraordinarily important. Please leave the door open for that. I don't know in what year it will be possible, but it is desperately needed, especially as an affordable second opinion that can help flag the need for careful review when appropriate.

If prisoners had access to an AI to critique our petitions before mailing them, what defects I don't yet see would have been fixed in the attached petitions? You, not I, are able to know. Neither I, nor the State, can afford a lawyer for me, but is an AI critique before mailing a reasonable compromise, with us deciding if the AI was right or hallucinating?

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Hans T. Reiser

Date: 5/26/25

Appendix A