

25-5260

NO.

ORIGINAL

Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

David Angel Sifuentes — PETITIONER
(Your Name)

vs.

People of the State of Michigan — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

David Angel Sifuentes
(Your Name)

439 More St, NE, Unit 2
(Address)

Grand Rapids, MI 49503
(City, State, Zip Code)

616-283-5215
(Phone Number)

QUESTION(S) PRESENTED

- I. Whether Michigan's expungement statute, MCL 8780.621, violates the Equal Protection Clause of the Fourteenth Amendment by categorically denying Petitioner the opportunity to seek expungement available to other similarly situated individuals, without a rational basis for the disparate treatment.
- II. Whether Michigan's expungement statute, MCL 8780.621, violates the Ex Post Facto Clause of the United States Constitution, Art. I, § 10, cl. 1, by retroactively increasing the punishment associated with Petitioner's prior conviction?
- III. Whether the Michigan Supreme Court's unexplained order denying leave to appeal constitutes an adequate and independent state law ground sufficient to bar this Court's review of Petitioner's federal constitutional claims, where the basis for the denial (procedural default or merits) is ambiguous?

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:

RELATED CASES

- 1) People of the State of Michigan v. David Angel Sifunter 772, Case No. 00-9445-FH (Midland County 42nd Circuit Court)
- 2) People of the State of Michigan v. David Angel Sifunter 772, Case No. 372111 (Michigan Court of Appeals)
- 3) People of the State of Michigan v. David Angel Sifunter 772, Case No. 167702 (Michigan Supreme Court)

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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.

For cases from **state courts**:

The opinion of the highest state court to review the merits 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 Michigan Court of Appeals court appears at Appendix B 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

1) US Const. art. I § 10, cl. 1 (Ex Post Facto Clause)

United States Constitution, Article I, section 10, clause 1 (Ex Post Facto Clause)
No state shall impose any Bill of Attainder, ex post facto law, or Law impairing the obligation of contracts.

2) US. Const. amend. XIV, § 1 (Equal Protection Clause)

United States Constitution, Amendment XIV, section 1 (Equal Protection Clause)
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.

3) Michigan Compiled Laws § 780.621 (in relevant part)

The full text of the statute as it existed at the relevant time should be included here or cited and included in Appendix F. For the purpose of this draft, it is noted that the statute generally provides a mechanism for setting aside certain criminal convictions but explicitly excludes others, including the offense for which Petitioner was convicted.)

STATEMENT OF THE CASE

In 2001, Petitioner David Angel Olfante 222 was convicted in the 42nd Circuit Court for the County of Midland, Michigan, of third-degree criminal sexual conduct (CSC III), MCL § 750.152a(1)(b), and furnishing alcohol to a minor, MCL § 436.1701(1). (Lower Court Case No. 00-189445-FH). His conviction was affirmed on direct appeal by the Michigan Court of Appeals and the Michigan Supreme Court subsequently denied leave to appeal.

Petitioner sought to expunge his record on December 8, 2023 which was denied. Petitioner's delayed application to the Michigan Court of Appeals was denied (Case No. 372111), and the Michigan Supreme Court denied leave (Case No. 167202) on January 25, 2020.

REASONS FOR GRANTING THE PETITION

This case presents important questions regarding the application of fundamental constitutional protections - the Equal Protection Clause and the Ex Post Facto Clause - to state expungement statutes that categorically deny relief to individuals convicted of certain offenses decades prior. Review is warranted because the Michigan statute arbitrarily discriminates against petitioners in violation of the Equal Protection Clause, retroactively enhances the punishment for his past offense in violation of the Ex Post Facto Clause, and the state courts' summary denial of review rests on ambiguous grounds that do not preclude this court's jurisdiction. See Sup. Ct. R. 10(c).

I. The Michigan Expungement Statute Violates the Equal Protection Clause by Treating Petitioner Differently than Similarly Situated Individuals Without a Rational Basis (or Const. Ct. 1846, Art. 1, § 24, § 1,

The equal protection clause of the Fourteenth Amendment requires that similarly situated individuals be treated alike. No. Const. Amend. 24, § 1, this court has recognized "class -cf. me" Equal Protection claims where an individual alleges intentional differential treatment from other similarly situated without a rational basis, see *Village of Willowbrook v. Blech*, 528 N.W.2d 562, 564 (2000).

Michigan's expungement statute, MCL § 780.821, creates such an irrational distinction. Denying expungement eligibility based on offense type alone, without consideration of rehabilitation, the passage of significant time, or the individual circumstances of the petitioner, fails even rational basis review and warrants this court's intervention.

22. The Michigan Ex-Partes Statute violates the Ex Post Facto clause by retroactively increasing the punishment associated with the Petitioner's prior conviction. (MCL art. 1511, cl. 1, Amend 1 & 2 V751)
The Ex post facto clause bars laws art. 1510 cl. 1 (a) being violated by legal consequences. See *Weaver v. Graham* 406 U.S. 437, 29 (1981), denying Petitioner an evidentiary eligibility based on statutory classification and increases the punitive consequences violates the constitution.

23. The Michigan Supreme Court's Summary Deral of leave to appeal does not constitute an adequate and independent state law ground preceding this Courts review. This Court has jurisdiction to review state court judgments that are not adequate or independent or regularly followed. Michigan v. Long, 463 U.S. 1032, 1030-31 (1983). The Michigan Supreme Courts summary denial (Appendix E), is not adequate or independently follows. Petitioner ask for liberal construction of his petition. *Harles v. Kerner*, 907 U.S. 519, 520 (1972)

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: July 8, 2020