

i
NO. 17-7918

IN THE
SUPREME COURT OF THE UNITED STATES

IN RE JOHN V. COLEN

Petitioner Pro Se Unrepresented

On Petition for a Rehearing of the Petition for Writ for Mandamus and/or
Prohibition to the California Fourth District ,Second Division ,Court of Appeals.

PETITION FOR A REHEARING OF THE PETITION FOR WRIT OF
AND /OR PROHIBITION [RULE 44].

John V. Colen

Petitioner Pro Se Unrepresented

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(951) 271-1556

May 24, 2018

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QUESTIONS PRESENTED

1. Whether the Petition for a Rehearing of the Writ for Mandamus and/or Prohibition Should be Granted ?
- 2.. Whether Honorable Manuel A. Ramirez Presiding Justice committed a Prejudicial Error in not Ordering the lower court to assign a case number for what is the substance of Appeals Case No. E069357 which Harmed the Petitioner and is Reversible Error?
3. Whether Honorable Manuel A. Ramirez Presiding Justice committed a Prejudicial Error in not Granting Petitioner his Ca C.C.P. 170.6 Peremptory Challenge in Appeals Case No. E069357 which Harmed the Petitioner and is Reversible Error?
4. Whether Honorable Manuel A. Ramirez Presiding Justice committed a Prejudicial Error in not Ordering the lower court to hold a Hearing or Demand for Jury Trial under Ca Const. Art. 1, Section 16. for what is the substance of Appeals Case No. E069357 which Harmed the Petitioner and is Reversible Error?
5. Whether The Petition for the Writ for Mandamus and/or Prohibition Should be Granted ?

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3. A Copy of the Appeals Court Filing Papers for E069357 [17-7918] dated 10-18-2017 which includes the Petitioner-Pro Se -Unrepresented 's Peremptory Challenge under Ca C.C.P. 170.6 and Demand for Jury Trial ,Ca Const., Art 1 Section 16 (Appendix A3)

4. A Copy of Honorable John W. Vinyard's September 18, 2017 Order of Denial without a court case number. Appendix A4)

5. A Copy of Honorable John W. Vinyard's August 21, 2017 Order of Denial without a court case number. Appendix A5

6. A Copy of the CH-109 Notice of Court Hearing document that has a blank space for a requested case number. Appendix A6

7. Please Compare Copy of Appeals Court Dockets of E069357 [17-

7918](Appendix A7(a)) and E068940 (RIC1309969[17-7158](Appendix

A7(h)) and notice a Peremptory Challenge against Justice Ramirez under

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and not for E069357 Appendix A7(h).

8. The" Your Opinion Matters , How are we doing , we read every card" form related to the Norco Office of the Ca DMV dated 5-21-18.[Appendix A8].

9. BLANK COPY OF CH-100 REQUEST FOR CIVIL HARASSMENT RESTRAINING ORDERS.

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OPINION BELOW

United States Supreme Court Case 17-7918 Petition for Writ for Mandamus and/or Prohibition was denied on April 30, 2018. It is not reported.

JURISDICTION

This Court's jurisdiction rests on 28 U.S.C. § 1651(a). Rule 44, Rule 45 ; U.S. Supreme Court Rule 20.1; Section 262 of the Judicial Code of The U.S. Supreme Court;

LIST OF PARTIES

John V. Colen ,Petitioner-Pro Se-Unrepresented, Apt 319.

Bharat Patel et.al., Respondents , Apt 421

I .STATEMENT OF THE CASE.....Pg(s)

For the Standard of Review, the Petitioner Pro Se-Unrepresented is respectfully asking the Court to treat the Petitioner-Pro Se -Unrepresented as a Litigant within the Suspect Class of Race as a Black Person, which he is, who qualifies for Strict Scrutiny.....✓

The Petitioner submitted a Harassment Case package [CH- 100 Series Request for Civil Harassment[Order Prohibiting Harassment and Stalking]- See copy of one document in the series ,] to Riverside Superior Court, Historic Court House location.Ca C.C.P. 527.6 provides that “ A person who has suffered

harassment as defined in subdivision (b) may seek a temporary restraining order and an order after hearing prohibiting harassment as provided in this section". Also see Ca Penal Code Section 632 -Invasion of Privacy and Ca Penal Code Section 629.90 Interception of Wire , Electronic Digital Pager , or Electronic Cellular Telephone Communications

Riverside Superior Court, Historic Court House location .has refused to assign a case number to the [CH- 100 Request for Civil Harassment-Order] documents [. which was improper. A large emboldened "RIC" is under each document page with no Case Number for identification"RIC_____".Also on each page there is the address of the Court which appears as the following: "

SUPERIOR COURT OF CALIFORNIA , COUNTY OF RIVERSIDE ,4100 MAIN STREET, RIVERSIDE ,CA 92501. A Civil Case Cover Sheet CM-010 is required . All forms require a Case No. and it states it is to be filed with the first paper filed in the action or proceeding.. It is filed also for statistical purposes and states that failure to file this form may result in sanctions. [See copy of CH-109 - Appendix A6] This Court Case was officiated under Honorable John W. Vinyard Judge who denied the continuance of the proceeding twice, once as a Superior Court Judge and the second time presumably as a Appellate Judge sitting in the Appellate Division of Riverside County Superior Court. [Objected to]-See Appendix A4 and Appendix A5].

Later, upon an Appeal by the Petitioner-Pro Se -Unrepresented [.Petitioner] at the Ca 4th District ,2nd Division Court of Appeals , under appeals case

E069357[17-7918],he sought a Petition for Writ of Mandate and/or Prohibition..

The Petitioner sought an Order from the Appeals Court to assign a case number to the unnumbered case at Riverside Superior Court, Historic Court House Location and the continuance of the [CH- 100 Request for Civil Harassment Order] documents .proceeding .

II REASONS FOR GRANTING THE WRIT.....3

A .INTRODUCTION.....3

“Under federal law , litigiousness alone is insufficient to support a finding of vexatiousness .See *Moy v. United States* 906 F 2d 467 , 470 (9th Circuit 1990). The focus is on the number of suits that were frivolous or harassing in nature rather than on the number of suits that were simply adversely decided. See *De Long v. Hennessey* 912 F2d 1144 ,1147-48 (9th Circuit 1990). For this reason, the mere fact that a plaintiff has had numerous suits dismissed against him is an insufficient ground upon which to make a finding of vexatiousness.” From *Clarence Howard v. Gradtillo et.al.*, 2011 WL 4971558.

B. The Petition for a Rehearing of the Writ for Mandamus and/or Prohibition should be Granted .There are new grounds stated in the Petition for Rehearing limited to intervening circumstances of substantial or controlling effect or to other substantial grounds not previously presented that the Petitioner has attempted to present to the High Court.

The case is of great importance to Litigants in a Suspect Class such as a Black Citizen subject to a Standard of Review of Strict Scrutiny and Petitioners Pro Se Unrepresented status . There has been errorneousness of Decision and Uniformity of Decision is needed.

C.Honorable Manuel A. Ramirez Presiding Justice committed a Prejudicial Error in not Ordering the lower court to assign a case number for [John.Colen v. Bharat Patel et.al.,] which is the substance of Appeals Case No. E069357 which Harmed the Petitioner and is Reversible Error.....4

See Bravo v. Cabell (1974) 11 Cal. 3d.834 (1974) 11 C3D 834, Alelaida Nava Bravo ,Pet. V. Clarence E. Cabell as Clerk etc. et.al. Respondents; THE PEOPLE , Real Party ;Carlos Chavez ,Pet. V. Clarence E. Cabell , as Clerk ,etc. ,et.al.,Respondents; THE PEOPLE ,Real Party in Interest. The Ca Supreme ordered Clerks in Ca Courts to render certain services and file certain papers without the payment of court filing fees by the Petitioners. . This Mr. Clarence E. Cabell ,Chief Court Clerk and his subordinates had refused to do before the Court Order.

In a case an attorney submitted a Civil Case Cover Sheet and obtained a Santa Clara Superior Court case number in the 6th Ca Appeals District.in Mordecai Tender. .www.jewishsurvivors.blogspot.com , et al, (6th District-2008) 164 Cal.App. 4th 802 [H0311301] It was just that easy. Why would Riverside County Superior Court, Historic Courthouse Location deny a case number for .Why would Justice Ramirez of the Ca 4th District , 2nd Division Court of Appeals refuse to Order them to assign a lower case number to John.Colen v. Bharat Patel

et.al. ? The Petitioner considers these inactions violations of his Due Process and Equal Protection Rights under Ca Article I Section 7 of the Ca Constitution and the 14th Amendment of the Federal Constitution.

D. Honorable Manuel A. Ramirez Presiding Justice committed a Prejudicial Error in not Granting Petitioner his Ca C.C.P. 170.6 Peremptory Challenge in Appeals Case No. E069357 which Harmed the Petitioner and is Reversible Error.....5

Justice Ramirez's Order Creates Exceptional Circumstances Warranting Mandamus and or Prohibition .See Appendix A3].

.Mandamus and/or Prohibition relief is warranted because, ,respectfully, Petitioner is asserting that Presiding Justice Ramirez exceeded his statutory jurisdiction.

Justice Ramirez did not recuse himself under the provisions of Ca C.C.P. 170.6 after the Petitioner's Peremptory Challenge was timely served on him in E069357 [See Appendix A3] . Justice Ramirez accepted the timely Petitioner's

Peremptory Challenge under Ca C.C.P. 170.6 in E068940[See

Appendix A7(a)]. Then Associate McKinster officiated in E068940[See

Appendix A7(a)].[See Solberg v. Superior Court ,]9 Cal 3d 182 (3-22-1977)] and

[Johnson v. Superior Court (1958) 50 Cal 2d 693 ; 329 P.2d 5]. ~~SEE~~ CACCP 170.7

E. Honorable Manuel A. Ramirez Presiding Justice committed a Prejudicial Error in not Ordering the lower court to hold a Trial or Jury Trial for what is the substance of Appeals Case No. E069357 which Harmed the Petitioner and is Reversible Error.....5

Presiding Justice Ramirez denied this request. In fact in his denial Order, he went one step forward and didn't wait and expressed his opinion about the case without viewing the Petitioner's allegations and evidence liberally construed with a view to substantial justice and first allowing the propounding of Discovery to the Respondent's and then a fair Trial but did none of this and reached a unsubstantiated Opinion., of which the Petitioner strongly objects to. Justice Ramirez lacked first hand knowledge of what the Tenants Bharat Patel et.al., in apt. 421 directly above the Petitioner have been doing which is constantly Harassing the Petitioner and the Petitioner is shocked that he would make the statement that it is the Petitioner harassing the Respondents and not the other way around.

In fact , the Tenants above the Petitioner have continued "full steam ahead" in harassing the Petitioner in engaging in the types of conduct he has previously complained of, probably because of in part, of such statements being made from persons of authority.

Other events have occurred that may or may not be related to a widespread harassment of the Petitioner. There is the event on 5-15-2018 during our annual HUD Recertification process wherein I was complaining to an area Supervisor about a Tenant acting creepy by many times inexplicably showing up when I am ambulating about outside my apartment. Some might characterize the conduct I described as Stalking and it should be taken seriously. The creepy acting person talked about left his HUB annual Recertification business close by in the Clark

Terrace II Office to listen in on the Petitioner's Recertification business taking place in a large adjoining room.. The Area Supervisor said to him so I could hear something like, " It's ok to walk around anywhere you want to." like not understanding what I was talking about. ignoring the point I was making. He purports that he cannot speak English

Another event was recently on 5-21-2018 at the Norco Ca D.M.V. an employee said words that were similar. She told a young male White Patron that he did not have to apologize to me ,sir, and that I was being rude[He cut ahead of us in a long line and we were all very tired at standing for a long time] I have mailed a " How are we doing" card to headquarters Ca DMV in Sacramento, Ca. to complain about her treating me rudely[See Copy of " How are we doing" card- Appendix A-8].

Though the words of my Area Supervisor and the employee at the Norco Ca DMV were different, both expressions have a similar "ring". Like, don't worry about the Petitioner, he's no body to be concerned about, do what you want. There was a sign at the back of the Norco Ca DMV office that said " WELCOME CITY OF NORCO EMPLOYEES". I did not know if I was talking to a California DMV employee or City of Norco employee. Perhaps Sacramento DMV will respond and answer that question.

There is a progeny of cases related to the city of Norco Like: 1. The Hampton Inn future ownership with a "Berm" installed in front of it's future location that I accidently tripped over and hurt myself. [with a settlement from the Hampton Inn

only, not City of Norco.] 2. There is the Petitioner's accidental fall at 3rd and Hamner Ave over the sidewalk and asphalt differential which resulted in a fractured little finger which led from Small Claims Court to to RIC 1309969 .

3, There was the claim against the City of Norco[Parks and Recreation] real party, when I was attempting to use one of the computers in the next door Norco Senior Citizen Center and on more than one occasion ,an employee or somebody would underhandedly say what I was looking at on the Internet or using Microsoft Word to create a document. And when I complained to Parks and Recreation before finally belatedly filing a claim against the City of Norco it was like "Hear no Evil", "See no Evil" and "Do no Evil".

4. The above event was like the 9-16-15 event that the Petitioner in a City of Norco Council Meeting between in clock time the Private City Council meeting and the City Public Council open to the public meeting when a Mayor[Pro Tem]/Councilman said what I seeing and scrolling on my private T-Mobile Smart Phone using some sort of electronic interception equipment. I asserted against the Mayor[Pro Tem]/Councilman legally In Capacity and In Personam and instead of asserting sections out of the Ca Penal Code [The Riverside D.A. Jurisdiction], I asserted **Government Code Section 53166** – the Regulations regarding the use of the **Governmental Interception of Cellular Communications** which also required observance of the Brown Act which required public hearings before the implementation of Ca Gov. Code Section 53166 which I questioned. This was MV1601241.

What was happening at the computers and what the Petitioner heard in the Norco Senior Citizen Center was similar in “tone “ to what I heard at the 9-16-15 Councilman Meeting . The perpetrators in the Norco Senior Citizen Center knew better and shouldn’t have done what they did and the Mayor[Pro Tem]/Councilman of all people knew better and had an even higher duty to have not done what he did.

5. There is the recent event of the Petitioner riding on San Bernardino Metrolink Train Number 323 on May 18, 2018 bound for Los Angeles Union Station when the train hit a truck injuring all passengers and crew aboard.

6. There is the event already brought to the attention of the Court wherein perpetrators on 10-24-2017 sneaked into Apt No. 319 , my apartment, and for unknown reasons left a Marlboro cigarette butt in a sandwich bag [Currently asking a Court or public entity for an Attorney Assignment for the Petitioner for the very limited purpose of obtaining a DNA Expert to analyze the DNA of the Marlboro cigarette butt for identification .] on the Petitioner’s kitchen sink. They also “re-arranged” an open can of cranberry sauce in the refrigerator by placing a plastic spoon turned upside down with a plastic bag covering it and the top of the open can. They placed a metal spoon next to the Marlboro cigarette butt covered by a sandwich bag on the Petitioner’s sink.

Article I, Section 16 of the California Constitution provides in pertinent part that,” trial by jury is an inviolate right and shall be secured to all...”, **Ca C.C.P Section 592, Frahm v. Briggs (1970) 12 Cal App 3d 441, 445-446, 90 Cal Rptr. 725; Stearns**

v. Los Angeles City, Sch. Dist. (1966) ,244 Cal App. 2d 696, 725 -726 ; 53 Cal. Rptr. 482.

F. The Petition for the Writ for Mandamus and/or Prohibition

Should be Granted10

The All Writs Act, 28 U.S.C. § 1651, authorizes the Supreme Court to issue extraordinary writs in its discretion. "To justify granting any such writ, the petition must show that the writ will be in aid of the Court's appellate jurisdiction, that exceptional circumstances warrant the exercise of the Court's discretionary powers, and that adequate relief cannot be obtained in any other form or from any other court." Sup. Ct. R. 20.1. See also U.S. Alkali Export Ass'n v. United States, 325 U.S. 196, 201-02 (1945); De Beers Consol. Mines, Ltd. v. United States, 325 U.S. 212, 217 (1945). [also look at Section 262 of the Judicial Code The U.S. Supreme Court..

Speaking of a Petition for Order against Harassment, hearing ,” the court must consider any relevant evidence , including hearsay evidence, when deciding whether to issue an order prohibiting the harassment. C.C.P. 527.6(I);Kaiser Found. Hosps. V. Wilson(2011) 201 CA 4th 550 ,555-558, 133 CR3d 756. The court may not deny a party the opportunity to present oral testimony. Schraer v. Berkeley Prop. Owners’Ass’n (1989) 207 CA 3d 719,730-733;255 CR 453 .

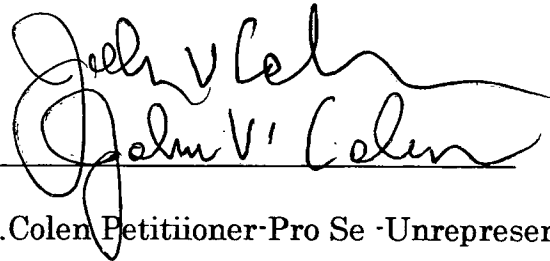
“ ...both sides may offer evidence by deposition ,affidavit, or oral testimony and the court must receive this evidence , subject only to reasonable limitations necessary to preserve the expeditious nature of the harassment procedure.. Direct testimony

from the petitioner that he or she suffered substantial emotional distress is not required for the court to issue an order . the Petitioner's declaration may be sufficient. **Ensworth v. Mullvain**, 224 CA3d at 1110-1111.

CONCLUSION

Based on all of the above, the Petitioner-Pro Se-Unrepresented respectfully requests that a Rehearing be granted -and that the Petition for Writ of Mandamus and/or Prohibition also be granted and to Remand with Instructions the case back to the Riverside County Superior Court , Historic Court Location to send a message that Plaintiff Pro Per Unrepresented Litigants who are in a Racial Suspect Class are to treated fairly in a Court of Law .

Respectfully Submitted,



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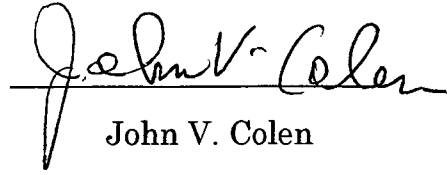
Petitioner-Pro Se Unrepresented

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CERTIFICATE OF PETITIONER-PRO SE-UNREPRESENTED FOR
CERTIFICATION FOR FILING A PETITION FOR REHEARING UNDER U.S.
SUPREME COURT RULE 44.2

I, John V. Colen Petitioner Pro Se-Unrepresented in U.S. Supreme Court
Case 17-7918 do hereby certify that there are new grounds limited to intervening
circumstances of substantial or controlling effect or to other substantial grounds not
previously presented that the Petitioner has attempted to present to the High
Court.

This Petition for Rehearing is presented under penalty of perjury under the
laws of the State of California on the 24th Day of May in the City of
CORONA, Ca by John V. Colen , Petitioner-Pro Se-Unrepresented.

A handwritten signature in cursive script, reading "John V. Colen", is written over a horizontal line.

John V. Colen

Declarant

Petitioner -Pro Se-Unrepresented

NO. 17-7918

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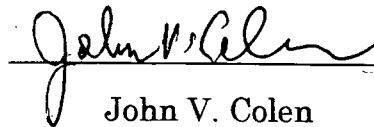
IN RE JOHN V. COLEN

Petitioner-Pro Se- Unrepresented

As required by Supreme Court Rule 33.2(b), I certify that the Petition for Rehearing of a previously submitted Petition for Writ of Mandamus and/or Prohibition contains 14 pages, Excluding under Rule 33(d) Questions Presented, the List of Parties,, a Corporate Disclosure Statement[n/a] , the Table of Contents, the Table of Cited Authorities, the Listing of Counsel [Petitioner-Pro Se- Unrepresented] at the end of the document ,or any Appendix . Verbatim quotations required under Rule 14.1(f) and Rule 24.1(f) if set out in the text of the brief rather than in the appendix ,are also excluded.

I declare under penalty of perjury that the foregoing is true and correct .

Executed on the 24th Day of MAY in the Year 2018 in the City of CORONA Ca.


John V. Colen

Declarant

Petitioner -Pro Se-Unrepresented

**Additional material
from this filing is
available in the
Clerk's Office.**