

IN PRO-SE.
STEVE CIOTTA #D-94599
P.O.BOX 8500
COLINGA, CA. 93210.

CASE NO. 17-8248

IN THE SUPREME COURT OF THE
UNITED STATES.

STEVEN CIOTTA
Petitioner

v.

K. HOLLAND
Respondent/warden.

ON PETITION FOR REHEARING OF CERTIORARI SUA-
SPONTE DENIAL ON 5-29-18, CONTENDING possible (ERROR)
occured regarding (A) subjects, on 9th Cir. U.S. Appeals
court. (SUMMARY);

~~SUBJECT #1~~; Seeking review asserting (NO) hearing
in lower courts has been held concerning U.S. Supreme Court
(principles) set-forth in (inmate mail box rule) case
Houston v. Lack (1988) 487 U.S. 266, (rule APPLYS EQUALLY)
to legal documents to timely file under Title 28 U.S.C. 1746
(affidavits). #1 #2.

(SUBJECT ~~#3~~); Same issues as (above) only in (another)
form of legal document to timely file.

(SUBJECT ~~#3~~); Abandonment of agent.

~~4~~
(SUBJECT ~~#3~~); Address reinstatement of direct appeal, (Roe v.
Flores- Ortega 528 U.S. 470.) ~~RE~~ (RETROACTIVE APPLICATION).

(SEE FACTS).

(SUBJECT #5) Abuse of discretion to
deny STAY.

(TIMELINESS);

Certiorari denied on 5-29-18, attached at end.
All below timely

Filed under S.Ct.R.39, in forma pauperis status
granted in D.C..

(CERTIFICATION).

Petition is presented in good-faith, and not for delay, restricted to intervening circumstances per. S.Ct.R.44.

(THE SUBSTANTIAL, OR CONTROLLING EFFECT);
PROVISIONS INVOLVED, U.S. Const. Amdts. 1, 5, 6, and 14 clauses.
U.S. Const. Art. 3 sec. 2, cl. 1. / F.R. Civ. P. 15(a). / 28 U.S.C.
1746, and 2242, Holiday v. Johnson (1941) 313 U.S. 342.

(CONTROLLING EFFECT);

Upon being successful to (timely) file amends
controlled by (5) subjects asserted in the (summary) on page
#1, in which the lower U.S. Courts here (NEVER) accorded the
petitioner a opportunity to provide proof of U.S. mail service
dates (per. 28 U.S.C. 1746), NO hearings.

(SUBSTANTIAL EFFECT);

Upon being successful on the merits in (amends), it
will significantly (reduce) current sentencing term, or will
reverse conviction(s), alleging a miscarriage of justice.

(ACTUAL CONTROVERSY, AND SUPPORTING AUTHORITIES);

S. Ciotta
Certification Verification, in (Pro-se):

D.C. Abused discretion because the motion had a under-
lying (legal basis) in the matter to timely file a legal
document in U.S. dist court to amend.

(SUPPORTING REASONS FOR GRANTING REHEARING).

In Castro v. U.S. 540 U.S. 375 (2003),
The U.S. Supreme Court HELD, that courts may recharacterise
a pro-se motion to (creat a better correspondence between the
Substance of a pro-se motins claim, and its underlying legal
basis).

TABLE OF CONTENTS.

TITLE AND SUMMARY. _____	PG. 1
CERTIFICATION. _____	PG. #2
TABLE OF CONTENTS. _____	PG. 3
TABLE OF CITED AUTHORITIES, FED. LAWS.	
CONST. AMENDTS., OTHER PROVISIONS. _____	PG.
SUBJECT ONE; TIMELY FILE MOTION <u>'under inmate mail-box</u> <u>rule in FR Civ P. 60 motion</u>	PG. 4
SUBJECT TWO; <u>Same as above, only another type document</u>	PG. 9
SUBJECT 3; ABANDONMENT OF AGENT. _____	PG. 13
SUBJECT 4; Ineffective assist. of council.	PG. 14
<u>SUBJECT 5. Denying stay, was abuse of discretion.</u>	PG. 15
APPENDIX.	
CERT, OF MAIL SERVICE.	

TABLE OF AUTHORITIES, FED. LAWS, U.S. CONST., OTHER..

F.R.CIV.P.15(a), AND R. 83./ 28 U.S.C. 2242, 1654.
2101, 1746, 2254, (r.8), and 1915, .2244.

18 U.S.C 3006a. / S.Ct.R.44.

U.S. CONST. AMDTS. 1 ,5,6, and 14 clauses.

U.S. CONST. ART. 3, SEC.2, cl.

TABLE OF CASES.

Anders v. Cal.(1967) 386 U.S. 738.

Bell v. Hood(1946) 327 U.S. 678.

Breier v. Northern Cal. bowling proprietors asso.
(1963 C.A.9) 316 f.2d. 787.

MEMORANDUM OF POINTS AND AUTHORITIES
IN SUPPORT OF:

(PART ONE);

1); Inquire is objectively based to bring courts attention the identity of a legal document centered in (connection) to its Significant (value) in federal procedure to obtain proper relief entitled; Pro-se Motion to WITHDRAWL court appointed counsel in federal habeas action, to litigate in pro-se, and amend, Johnson v. Patton[2014 C.A.10] 2014 U.S. App. Lexis 17213, HELD:

A Statutory Right exists in federal habeas action, to litigate in pro-se, also see, Ferretta v. Cal. [1975] 422 U.S. 806;95 S.Ct. 2525, HELD: A constitutional right exists to proceed in pro-se in a crim. action.

(NOTING ABOVE DOCUMENT WAS NEVER received by the U.S. Dist. court PRIOR to final order.).

2);

Fittingly, F.R.Civ.P.60[b],[6] motion seeks relief to Timely-file legal document (above), in the (present) U.S. Dist. court under (Operation) of INMATE-MAIL BOX- RULE established by the U.S. Supreme court Precedent Houston v. Lack[1988-U.S.-]487 U.S. 266, which effectively empowers courts to PERMIT a legal document as Filed on the date it was forwarded to institutional U.S. mail staff,(in the event it was not received by court on date procedure requires it).

Rule clearly applys to (ALL Documents) Set-forth in U.S. Supreme Ct.R.29-2 criteria) and has been widely accepted

(SUBJECT ONE):

4

Legal Mail

1 to apply to petitions, motions, amended petitions, discovery
2 responses, etc., [cases applied to cited at FN1].

3 As guidance, (in general), the plain meaning rule applies
4 here, or when NO indication is given to a specific legal
5 meaning for a term, the court may look to sources such as
6 dictionaries for definition, U.S. v. Mohrbach [1999, C.A.9]
7 182 f.3d.1041.

8 (See Commentary) of Webster english dictionary definition
9 of document, n.; "A paper that furnishes information, or
10 support of something else."

11 Blacks law dictionary defines the word Motion; "A proposal
12 made under formal parliamentary procedure."
13

14
15
16
17
18
19
20
21 3); Recognizing Paramount principles involved in law, and
22 fact to Timely- file (stated document),
23 Movant Sets-forth sufficient showing facts, and affidavits,
24 Per. (28 U.S.C.1746) in form of institutional U.S. mail record
25 containing proper dates of 2-4-13, and 2-6-14, 4-3-14,
26 with addresses to D.C. sent PRIOR to U.S. dist. court final
27 order, which where never received by D.C.
28

1
2 3);

3 (ESTABLISHING F.R.Civ.P.60 motion applies here):

4 Recognizing the principle establishing rule at issue, it
5 involves conditions BEYOND movants control, Houston 487 U.S.--.

6 In that light, the U.S. Supreme court has Set-forth
7 conditions for rule 60 to apply in Klapprott v. U.S.[1949]
8 335 U.S. 601, HELD: F.R.Civ.P.60[b],[6] EXTRAORDINARY circum-
9 stances means lack of Fault by movant, which prevented
10 movant from fully, and fairly presenting case.

11 Also see, Gonzalez v.Crosby[2005] 545 U.S. 524, HELD:
12 F.R.CIV.P.60[b], applies when some defect exists
13 in federal habeas procedure.
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4 4); (IDENTIFYING SIGNIFICANT VALUE OF DOCUMENT);

5 Perspectively, petitioner suffers irreparable injury
6 by deprivation of federal rights, based on court appointed
7 counsel litigating federal habeas action by failure to
8 bring to the D.C. attention of a New rule announced by
9 U.S. Supreme Court in Martinez v. Ryan [2012- U.S.-] 132 S.Ct.
10 1309, HOLDING: Federal courts shall address a cause and
11 prejudice for untimely filing federal habeas action due to
12 ineffective assist. of counsel, (DISPITE A.E.D.P.A. time-bar).
13 Because this claim was present in original habeas action
14 which the court granted a motion to dismiss under A.E.D.P.A.,
15 nothing further, agent did Not bring issue on appeal, or in
16 certiorari to U.S. Supreme court. Given these conditions,
17 currently, can not be relitigated.
18

19 In that light, being mindful to yield, and "focus"
20 examining the Great SIGNIFICANT Value, (illustrative point),
21 involving real material in essence to a procedural effect
22 in the event that had the motion in question been timely
23 received, and granted, a DIFFERENT RESULT would exist by
24 succeeding on the merit by bringing courts attention the
25 NEW Rule announced by U.S. Supreme court in Martinez v.
26 Ryan [2012-U.S.-] stated (above) which movant was aware of,
27 or, succeeded in partial relief in amends, in the event
28

1 above claim is NO avail remedy, (amending is a critical
2 component in civil proc. to obtain relief)..

3 Morris v. U.S.[2004, C.A.9] 363 f.3d.891, HELD:

4 F.R.Civ.P.15[a] applys to federal habeas actions with
5 same FORCE as civil, 28 U.S.C.2242.

6 Johnson v. U.S.[1999,C.A.7] 196 f.3d.804, HELD:

7 Amending is part of a ONGOING action before
8 final judgement, held Not successive.

POINTS IN LAW, AND FACT TO VACATE U.S.
DIST. COURT FINAL JUDGEMENT ORDER ENTERED ON 6-17-14..

(DOCUMENT ONE);
(TITLE 28 U.S.C.1746)..

Movant seeks a Evidentiary hearing to vacate
final judgement to PERMIT TIMELY Filing under TITLE 28
U.S.C.1746, Inmate mail box rule a DOCUMENT ENTITLED;

Urgent motion for LEAVE to file a amended petition
per. F.R.CIV.P.15(a), with amended petition, including
WITHDRAWAL OF COUNCEL with PROOF OF PRE-PAID U.S. Mail ser-
vice dates PRIOR to responsive pleading, or final judgement,
dates attached as APPENDIX(in ^{Cert.}). Institutional mail records.

(SEE, HOUSTON V. LACK(1988)487 U.S. 266;108 S.CT. 2379,
"a document is DEEMED FILED upon date delivered to institution-
al officer.."

FACTS ON DOCUMENT.;

ON DATE OF 2-4-13 MOVANT SENT STATED DOCUMENT TO U.S.
DIST. COURT, AND FOLLOW-UP ON 2-6-14,
APPARENTLY NEVER RECIEVED BY U.S. DIST. COURT.

(RELEVANT CASES CITED IN SUPPORT OF;)

- - MITCHILL V. McCAUGHTRY(2003, E.D.WIS.) 291 F.SUPP.2D.823,
"HABEAS CORPUS FINAL ORDER VACATED ONDER 28 U.S.C.1746,
INMATE MAIL BOX RULE, PERMITTING TIMELY FILED AMENDS UNDER
F.R.CIV.P. 15(a)."
- - DOUGLAS V. NOELLE 567 f. 3d.1103(9th cir.2009).
"INMATE MAIL BOX RULE APPLYS TO TIMELY FILE A 42 U.S.C.
1983 APPLICATION."
- - MILES V. DEPT. OF ARMY(1989 C.A.9)881 F. 2D. 777,
"WHERE ONLY A MOTION TO DISMISS IS FILED,
MOVANT STILL HAS RIGHT TO AMEND.."
- - ALSO SEE; MORRIS V. U.S. (2004 C.A. 9)368 F. 2D.891,
"F.R.CIV.P.15(a), APPLYS TO A 28 U.S.C 2254 APPLICATION
WITH SAME FORCE AS CIVIL, 28 U.S.C 2242, HOLIDAY V. JOHNSON
(1941)313 U.S. 342.."
- - BREIER V. NORTHERN CAL. BOWLING PROPRIETORS ASSO.
(1963 C.A.9) 316 f. 2d.787,
"FAILURE TO STATE A CLAIM UPON RELIEF COULD BE
GRANTED, (MOVANT STILL HAS RIGHT TO AMEND BEFORE RESPONSIVE
PLEADING).."

(SUBJECT TWO)

DOCUMENT TWO:

(TITLE 28 U.S.C.1746).

TIMELY FILE DOCUMENT PER. TITLE 28 U.S.C.1746,
UNDER PRINCIPLES SET-FORTH IN HOUSTON V. LACK(1988) 487
U.S. 266(inmate mail-box rule),WITH PROOF OF PRE-PAID
U.S. INSTITUTION MAIL RECORD DATED (PRIOR) TO ANY
RESPONSIVE PLEADING. OR, FINAL JUDGEMENT ORDER ADDRESSED
TO AGENCY OF COURT APPOINTED COUNCEL.

(SEE COPY OF INSTITUTION MAIL RECORD DATES, AND
ADDRESS AT APPENDIX, in cert.)

(FACTS IN CONTROVERSY);

FORM OF DOCUMENT AT ISSUE IS ENTITLED;

" NOTICE TO COURT APPOINTED COUNCEL UNDER 18 U.S.C
3006A, HABEAS R. 8(c),

CLIENT REQUEST FOR COUNCEL TO FILE
A AMENDED PETITION TO EXPAND-FACTS FOR FEDERAL JURISDICTION
UNDER EX-POST-FACTO CLAUSE IN U.S. CONST.,(PRIOR) TO A
RESPONSIVE PLEADING,OR FINAL JUDGEMENT ORDER ON ORIGINAL
PENDING PETITION IN U.S. DIST. COURT DOC.# CV-12-10593-
GHK-AS, AND TO RESPOND WITHIN A FIXED TIME BY CONTACTING
CLIENT REGARDING FACTS."

THE LEADING CASE IN AUTHORITY SUPPORTING
RELIEF IS FAILE V. UPJOHN 998 F.2D. 985(9th CIR. 1993),
1993 U.S. APP. LEXIS 4925.

IN FAILE, THE U.S. DIST. COURT VACATED FINAL
JUDGEMENT IN A (42 U.S.C. 1983) APPLICATION UNDER INMATE
MAIL BOX RULE IN REGARDS TO A COURT ORDER DIRECTING INMATE
TO SERVE DISCOVERY RESPONSES ON RESPONDENT, IN WHICH,
WHERE SUBMITTED TO PRISON AUTHORITYS BY INMATE FOR FORWARD-
ING TO PARTY BEING SERVED, THAT APPARENTLY WHERE (NEVER)
RECIEVED..

ASSERTING THIS LOGIC MAY APPLY TO PRESENT CASE BY
PERSPECTIVELY (SUBSTITUTING) THE (PARTY) IN THAT CASE
BEING SERVED,FOR,

THE (PARTY) COURT APPOINTED COUNCEL HERE,
AS AGENCY BEING SERVED..

DOCUMENT TWO, CONT.); _____ 1.

REASONING THAT FIVE SIGNIFICANT ELEMENTS
EXIST IN NEXUS OF FAILE TO SUBSTANTIATE THE IMPOSITION
THAT INMATE MAIL BOX RULE MUST APPLY TO THIS PARTICULAR
TYPE OF LEGAL DOCUMENT IN PRATICE GOVERNED BY REAL-
SUBSTANCE IN F.R. CIV.P., JUST AS IN FAILE..

(FIRST KEY)..

ASSERTING FACT THAT FAILE (CANNOT) ANSWER) IN COURT
ON DISCOVERY RESPONSES, WITHOUT FIRST BEING SERVED THE
DISCOVERY MATERIAL REQUIRED UNDER F.R. OF CIV. P..

(SECOND KEY)..

IN LIGHT OF ABOVE FACTOR, ALSO EXISTS THAT
FACTOR IN PRESENT CASE, (ONLY) EXPLORED IN ANOTHER FORM
OF LEGAL DOCUMENT HAVING THE SAME SIGNIFICANT WEIGHT,
BEING THAT A COURT APPOINTED COUNCEL (UNKNOWN)
OF CLIENTS DESIRE, OR ISSUES TO AMEND THE PENDING ORIGINAL
ACTION ASSIGNED TO,

(CANNOT) FILE A AMENDED PETITION WITHOUT BEING
SERVED BY CLIENT THE MATERIAL FACTS AT ISSUE TO AMEND,
WHICH CAN ONLY BE DONE THROUGH COUNCEL PER. F.R.CIV.P.83,
(local rules), AND (ONLY) CONTACT IS THROUGH U.S. MAIL..

(THIRD KEY)..

(AMPLIFYING FACTOR);

DO TO REAL SUBSTANCE IN F.R. CIV. P. 83(local rules),
A COURT RULE THAT GOVERNS FILING LEGAL DOCUMENTS
UNDER CONDITIONS WHEN A U.S. DIST. COURT APPOINTS COUNCEL
PER. 18 U.S.C. 3006A, HABEAS R. 8(c), (as in present case),

"ALL COMMUNICATION CONDUCTING BUSINESS IN LITIGATION
ON PETITION (MUST) ONLY BE THROUGH COUNCEL, INCLUDING
FILING AMENDS.."

DOCUMENT TWO
(FOURH KEY) CONT.);

RECOGNIZING THE PRINCIPLES SET- FORTH IN
HOUSTON V. LACK (1988),

WHICH HOLDS THAT "ALL THE RATIONALES FOR APPLYING
THE MAIL BOX RULE TO PRISONERS NOTICE OF APPEAL,

(APPLYS EQUALLY), BECAUSE THE PRISONER WAS
UNABLE TO CONTROLL HIS LEGAL DOCUMENT ONCE DELIVERED TO
PRISON AUTHORITYS,

AS APPLIED TO FAILE IN DISCOVERY
RESPONSES..

(FIFTH KEY) ..

(IDENICAL FACTOR);

IMPLYING REALISTICALLY, IDENTICAL KEY ELEMENTS
EXIST BEING (PRIM PARTYS) IN CONDUCTING LITIGATION IN A
CIVIL ACTION,

AND THE PRINCIPLES THAT AMENDING IS A CRUCIAL
COMPONENT IN F.R. OF CIV.P. TO OBTAIN RELIEF SOUGHT HAVING
SIGNIFICANT WEIGHT THAT CAN ONLY BE DONE THROUGH COUNCEL.

WHEREFORE,

A EVIDENTIARY HEARING IS REQUESTED TO
EXPLORE AND RESOLVE ISSUES OF LAW, AND FACT AS TO WHETHER
THE MAIL BOX RULE PRINCIPLES APPLY TO THIS PARTICULAR
MATTER IN THE INTEREST OF FAIRNESS WHEN SIGNIFICANT
FACTORS EXIST, AND IN ESSENCE OF THE PHRASE (APPLYS-
EQUALLY) ASSERTED IN(MAIL BOX-RULE), THIS MATTER SHOULD
BE EXPLORED AND DECIDED BY A MAJORITY OF THE COURT WHEN
THAT RULE HAS BEEN (FACTUALLY) APPLIED (TO OTHER FORMS
OF LEGAL DOCUMENTS EQUALLY IN,

DOUGLAS V. NOELLE(9th cir.2009),

FAILE V. UPJOHN (9TH CIR.1993),

IN LIGHT OF THESE PARTICULAR (NEW) CIRCUMSTANCES
IN FORM INVOLVED, REGARDING QUESTIONS OF LAW, AND FACT,
HE ADMINISTRATION OF JUSTICE WOULD (NOT) BE SERVED BY
LEAVING MATTERS (UNRESOLVED) AT THIS JUNCTURE.

QUESTION

ABANDONMENT OF COURT APPOINTED AGENT
LITIGATING FOR CLIENT ESTABLISHING
CAUSE IN FAILURE TO FILE CERTIORARI
IN U.S. SUPREME COURT.

In accord to U.S. APPEALS COURT FOR
THE NINTH Circuit, (Cir. R.4-1(e)), Council in post-appeal
proceedings. Petitioner was Prevented from asserting NEW rule
in certiorari in Pro-se, because he relied on appointed
council.

Council abandoned client by NEVER notifing client
he intended to withdrawl, and failed to conduct MANDATORY
Duty to file a withdrawl motion in the 9th Cir. within 21 days
from the judgement.

See, Austin v. U.S. [1994] 513 U.S. 5.

Maples v. Tomas [2012-U.S.-]132 S.CT.912, RELIEF for
abandonment of state post conviction council.

Mackey v. Hoffman [9thCir.2012] 682 f.3d. 1247, RELIEF
for abandonment of agent in failing to file a notice of appeal.

Action? Permit New rule application.

(SUBJECT THREE):

QUESTION(S) PRESENTED

(INTRODUCTION TO SET THE SCENE);

ISSUE ONE: TO ESTABLISH U.S. PRECEDENT AS TO WHETHER U.S. SUPREME COURT CASE LAW IN MARTINEZ V. RYAN[2012-U.S.-] ANNOUNCING NEW (BEDROCK) RULE, APPLYS RETROACTIVE ; ISSUE TWO: INFERIOR FEDERAL COURT DECREES CLEARLY CONFLICT WITH ESTABLISHED DIRECTIVES, DECISIONS IN U.S. SUPREME COURT PRECEDENTS CITED..S.CT.R.10,(a),(c).

U.S.CONSTITUTION ART.3,SEC.2,CL.1..

(QUESTION ONE);

Is Granting certiorari warranted to resolve and ESTABLISH U.S. PRECEDENT addressing whether RETROACTIVE application applies to the NEW BEDROCK RULE announced in Martinez v. Ryan [2012-U.S.-], (EXCEPTION to address merits of certain claims DISPITE A.E.D.P.A. time-barr), BASED on Principles of BEDROCK PROCEDURES Established in Gideon v. Wainwright[1963-U.S.-], and Evitts v. Lucy [1984-U.S.-], applying under Teague v. Lane [1989-U.S.-] (SECOND EXCEPTION),

APPLYS RETROACTIVELY to cases that where FINAL, REASONING that the Ninth Circuit U.S. appeals court DECLINES to address whether Martinez (exception) applies retroactively, Jones v. Ryan[9th Cir.2013],

OR, To Remand do to inferior federal court decrees that CONFLICT with decision in Martinez (exception), because it was announced (PRIOR) to petitioners filing of a 28 U.S.C.2254 (habeas action) claiming CAUSE AND PREJUDICE for untimely filing his federal habeas action do to ineffective assistance of trial, and sentence counsel U.S.C.A.5,6,and 14 clauses, that where NOT addressed, with directions to address?

(SUBJECT FOUR):

(~~QUESTION FOUR~~);

Is granting certiorari warranted do to the assertion that U.S. dist. Ct. Denial of prisoners motion requesting a STAY procedure for "Good-cause" on (pending) federal habeas action, Constitutes PALABLE ABUSE of discretion. Based on crucial relief sought in motion, (see below), and factor that it resulted in irreparable injury by violating movants federal rights, when court obtains power to order a Stay, Landis v. N. American Co.[1936]299 U.S. 248; 57 S.Ct.163,

A federal court may STAY proceedings as part of its Inherent power to control the disposition of the cause on its docket, either with effort for itself, for counsel, or for litigant.

(NATURE OF STAYS VALUE);

Movant asserted he was (unable) to contact court appointed federal habeas counsel to discuss clients intentions to file a (amended) petition expanding facts for relief PRIOR to motion to dismiss, or answer, THERE-IN, seeking court to (INTERVENE)by contacting counsel, and instruct to contact client on matter soon as possible, so as client may (withdrawl) counsel to amend in "pro-se," if counsel declines to amend, (never receives U.S. mail to counsel by client) ?

(SUBJECT FIVE)

15