

No. 16-16420

IN THE
SUPREME COURT OF THE UNITED STATES

Go MEMO VERA — PETITIONER
(Your Name)

vs.

EASTERN DISTRICT of Ca. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS 9TH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Go MEMO VERA
(Your Name)

S.A.T.F. P.O. BOX 72480
(Address)

CORCORAN. CA. 92212
(City, State, Zip Code)

1/4
(Phone Number)

1. 775

QUESTION(S) PRESENTED

In Constitutional questions where correction depend upon the modification or amendment of essential facts on a prior District Court Judgment. inconsistent with substantive Justice "Manifest injustice" this Court. throughout its history has freely exercised its power to reexamine the basis of its constitutional decisions and ^{newly} sometimes reconsider Civil clause Jurisprudence. Fed. Rul. Civ. Pro. 60 (b) 6115

Appellate review of unobjected to factual findings and legal conclusions accepted by the District Ct Douglas v. U.S. Auto. Ass. 79 Fmp. 1415 (9th Cir 1994) EN Banc.

Arising from an state sponsored abduction within U.S.C territories. without petitioners consent an infraction of customary law norms international Human Rights Law Restatement 2nd of Foreign Relations Law § 102 Alvarez Macham v. U.S. 284 Fmp 1034 (9th Cir 2002) EN Banc.

Whether an aggrieved party shall be barred from de Novo review

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:

UNITED STATES DISTRICT Ct. EASTERN DISTRICT
2500 TULARE Ct #1501 FRESNO CA. 93721

NINTH. CIRCUIT COURT OF APPEALS
P.O. BOX 199939 SAN FRANCISCO CA. 94119

GOVERNOR GENERAL of the UNITED STATES
Room 2014 Department of Justice
950 Pennsylvania Ave. N.W.
Washington. D.C. 20520-0001.

Embajada de México
1911 Pennsylvania Ave. N.W.
Washington D.C. 20006

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Douglas v. U.S. Auto. Ins. Co. 79 Fed. 1415 (9th Cir 1994)
En Banc.

Huarez Machain v. U.S. 284 Fed. 1022 (9th Cir 2002).
En Banc.

STATUTES AND RULES

Title 28 § 1741, 1292, 1715, 1740. 2515. (a), 2480. (a)(b).
Fed. Rul. Civ. Pro. 40. (b), 41, 59. 9
Human Rights Law Reclamation. Fed Foreign Relations § 102
18 U.S.C. § 1790A.

Armstrong Remedial Plan.
504 R.A. 1973. 29. U.S.C. 794.
28 C.F.R. § 42.507(f).
42 U.S.C. 12132.

OTHER

UNITED NATIONS CONGRESS. TREATMENT OF OFFENDERS.
Held at GENEVA. 1955. approved 1957 Revised & Reapproved May 2015.
"NELSON MANDELA RULES"
VIENNA CONVENTION. OF CONSULAR AFFAIRS.
11. 115

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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 _____ 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 _____ 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: Jan 22, 2018, 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).

☐ 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).

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CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- Haines v. Kerner. U.S. Page 10.
- U.S. v. Owens. 34 Fed. 271 (CA-6 1995)
- U.S. v. Tolanino 500 Fed 247.
- Credit Union v. Selbonis. 72 Fed 421 (1st Cir 1995). Page 11
- Kell v. Withrow. 25 Fed 1000 (4th Cir)
- Peterson v. Minzies. 717 Fed 200 (11th Cir)
- Trust Corp. v. Hallmark Publishers Inc 994 Fed 1144 (11th Cir 1995) Page 12
- Wijn v. Defenders of Wild Life 504 U.S. 559.
- Gonzales v. Sullivan 914 Fed 1197 (4th Cir 1995)
- Sholala v. Tulizky. 999 Fed 1411 (4th Cir 1995).
- Martinez v. City of L.A. 141 Fed 1000 (4th Cir 1999) Page 13
- Park Motor Mart. v. Ford Motor 44 Fed 400.
- Harper v. Virginia Dept of Tax. 509 U.S. 80
- Anderson v. Liberty Lobby Inc. 477 U.S. 242
- Texfiller Mills Sec. Corp. v. Commissioner 314 U.S. 120. Page 14.
- Ex parte v. Kowato 310 U.S. 450 - 217 U.S. 49.
- Los Angeles v. James. 272 U.S. 701.
- Ex parte Baldwin. 291 U.S. 410.
- Ex parte Colonna. 314 U.S. 510.
- Moonen v. Holohan. 294 U.S. 402.
- Cooney Vacuum Oil Co. 310 U.S. 170
- Montgomery Ward & Co. v. Duncan. 311 U.S. 243.
- Western Pacific Ry Corp. v. Western Pacific Ry Co. 345 U.S. 247 Page 16
- Ex parte v. U.S. 287 U.S. 241.

STATEMENT OF THE CASE

The decision stands in "sharp conflict" with the basic legal principles that have roots in the early common civil law.

The 9th Circuit denied petitioner's Appeal based on a purported technical ground citing *United Nat. Ins. Co. v. Spectrum World Wide, Inc.* because on the face of the motion titled "Motion to Amend the Findings pursuant F.R.C.P. 59.40.(b). please see Exhibit attached hereto; petitioner expressly identified such document as a 40(b) motion but thereby did not effectively recite the statutory textual definition of the Federal Rule.

In addition it shall be duly noted that the authorities invoked that circumscribe the context of the motion strike directly at most prolific sources of F.R.C.P. 40(b). effectuating the most sound logical inference to the point which is availing for the purpose of doing it, is not further difficult to hypothesize the facts whereby is exposing the claim of rights please see excerpts from Appeal brief attached herewith as exhibits. *Haines v. Kerner*. U.S. the defenses to the unlawful acts in violation of the Constitution 18 U.S.C. § 2384. perpetrated: to craftily, create or otherwise fulfill the concept ultra vires. the case at hand has great similitude to *Alvarez Machain v. U.S.* supra.

When Government is unable to enforce the law because the conduct of its Agents has given rise to stopped the interest of a citizenry as whole obedience to the rule of the law is undermined it is for this reason that is well settled that Government may not be stopped on the same terms as any other litigant. Nor is this case where the shift of the Government position is the result of the change of Public Policy. *U.S. v. Owens*. 54 Fed. 271, 275. (CA 6, 1995)
United States v. Toscanino. 500 Fed. 247.

In the present case it was conceived to synthesize the instrument and treat briefly some issues of significant knowledge of the Court. Throughout the present a manageable size in the arguments making the authoritative exponents intelligible in a prompt and reasonable start to full involvement into the issues engaged in order to further relief. *Haines v. Kerner supra*.

However the Petition[s] for Rehearing Docket entry No. 225-226 were developed in sound reason of Public Policy and Civil common law in the enacting of the position and perspective we stand for with rhetoric persuasive legal basis Constitutional principles that cannot be allowed to yield. Please refer to the above stated Briefs.

Procedural Rules should not be rigidly adhered to inflict manifest injustice upon one of the contrary parties *Fed. Credit Union v. Selbonis*. 724 F.2d 921 928. (1st Cir 1995) Waivers of Rules should not prompt to defeat the ends of justice. *one Fed. at 949-50* objections to Magistrate judge report is not jurisdictional and failure to comply may be excused in the interest of justice. *Kell v. Withrow*. 25. 724 F.2d 921 928. (4th Cir) 115. S.Ct. 674. compliance is excused also when Dist. Ct. considers untimely objections. *Telferson v. Mink* 2001. 717 F.2d 284. the 11th Circuit applies Nettles review of accepted unobjected to proposed factual findings for plain error or manifest injustice. *Resolution Trust Corp. v. Hallmark Publishers Inc.* 994 F.2d 1144-49 (11th Cir. 1993)

As opposed to the forcible abductions (ultra vires) intended to recover Personal legal Properties in which we found materials in depth; projects in development. Work product doctrine (in contempt to Judge Joseph Kalashan Tul. Co Sup. Ct.) in order to frustrate the proceedings. Petitioner in good faith believes he has Bonafide claims. the issue of fact or law not actually litigated or resolved by a

trial Court proceeding. Restatement (Second) of Judgment §§ 17, 27. pp. 148, 250 (1980).

The petitioner has succeeded in presenting persuasive evidence to the Court of Appeals into accepting the party's earlier positions, so that judicial acceptance of the failure to take certain actions was the result of inconsistent or arbitrary actions in the earlier proceeding which has created the perception in the 1st and 2d. Court, rather was misled into thinking as the 9th Circuit proposes in the case of the panel opinion regarding an employee who idly sat relying on her attorney actions or inactions. Petitioner would direct the Court's attention to the communication and exhibits addressed to the judges Thomas Silverman and Rawlinson attached herein as Appendix.

Injury in fact, invasion of legally protected interest concrete and particularized actual and imminent not conjectural or hypothetical an express connection between the injury and the complaint traceable to the challenge action not the independent action of some 3rd party before the Court the injury will be redressed by a favorable decision. *Wynn v. Defenders of Wild Life Natl. Org.*

The scope of our review; however is limited. We may not set aside a denial of benefits only if it is not supported by substantial evidence or if it is based on a legal error. *Gonzales v. Sullivan* 914 F2d 1197. (9th Cir 1993). Substantial evidence is relevant evidence which considering the record as whole, a reasonable person might accept adequate to support the conclusion. *Tulizky v. Chafala* 999 F2d 1411-13 (9th Cir 1993).

The claim of preclusion generally refers to the effect of a prior District Ct. judgment foreclosing the actual litigation of the claim of rights and which relates to the very same claim above, re-litigation of the claim, raise the same issues as the earlier suit per se as the 9th Cir stated in *Redgett v. Wright* which is

substantially supported by statutory language, further demonstrates that the state actions are contrary to sound public policy. The physical inequalities are incapable of objective measurement; factors like these precluded the claim of rights which affected adversely the legal development of the process.

Martinez v City of L.A. 141 F.3d 1177 (9th Cir 1994)
accordingly Martinez detention is arbitrary. it is not pursuant to the law. it may be arbitrary also if it is incompatible with the principles of justice or dignity of a human person. quoting - Restatement Foreign Relations Law § 702 and in the context of the failure to object the Report and Recommendation is nothing more than a shorthand way of describing the result of plain error that is worthy of correction under the Olano-Adversely affected accordingly plain error review alone satisfies Thomas v. Arn's concern for the interest of justice noting that there may be a special category of forfeited errors that can be corrected regardless of the effect on the outcome. F.R.O.P. 40(b) Park Motor Mart v Ford Motor Corp Fed Cir 2005 Harper v. Virginia Dept. of Taxation 509 U.S. 866

Moreover severe and persisted inequalities amounted to law administered with unequal hand; distinctions between citizens solely because of their ancestry are by nature odious to free people whose institutions are founded upon the doctrines of equality and all legal restrictions which curtail the civil rights of single racial group are immediately suspect [and] must be subject to the most right scrutiny. Doctrine held classified violative of 8th Amendment and equal protections if it is based upon differences not reasonably related to proper legislative objective. The evidence is such that a reasonable party could return a verdict for the nonmoving party Anderson v. Liberty Lobby Inc. 477 U.S. 242-248

REASONS FOR GRANTING THE PETITION

As early as 1928 the Judicial Conference of Cir. Circuit Judges recommended the Judicial Code that the Majority of the Circuit Judges may be able to provide for greater number of judges for instance when unusual circumstances make such action advisable. Section 212 of Title 28 U.S.C. 1940 ed.

The En Banc power confirmed by § 46 (c) is necessary and usefull power indeed too usefull that we should ever permit a Court to ignore the possibilities of it's use in cases where it's use may be appropriate if § 46 (c) is to achieve it's fundamental purpose. *Textile Mills Sew. Corp. v Commissioner of Internal Revenue* 425 CA. 272 314 U.S. 326

The particular case is appropriate; an anomalous situation was presented for consideration by all judges: A Court may take steps to use the En Banc power sparingly but it may not take steps to curtail it's use indiscriminately. It should also be decided whether the En Banc issue has been adequately treated by the 4th Circuit review of the proceeding; further whether "extent consideration by the Court of Appeals is necessary or appropriate; the question is of such nature that peculiarly suitable that such action by the Supreme Court should be taken.

The factual background upon which petitioner's complaint was founded is complicated. as it is very rare for present purposes suffice it to say that the cause of action was founded on a theory of "Manifest injustice" jurisdiction of the Federal Court has been invoked upon grounds of Diverse Citizenship of the parties; any suit to which the U.S. is a party in it's capacity as Agent or State and which involves the rights or obligations of it's members shall be deem to arise under the laws of the U.S. and Court of Appeals shall have jurisdiction.

It interferes with proper conduct of our Foreign Relations - as of such public import and exceptional character as to call for the exercise of discretion to save the unit. The case involves the solemn rights of access to the Courts of a "friendly Sovereign", the claim of rights which were normally presented and interpreted in the course of conduct of Foreign Affairs - by Representatives, Consuls on to State Officials and through Diplomatic negotiating notes - Application for the unit; ordinarily must be made to the Supreme Court as a Court of ultimate review in such exceptional cases.

Ex parte V. Kowale - 216 U.S. 450 - 217 U.S. 69 - 71.

Los Angeles v. James - 272 U.S. 701 Ex parte Baljwin.

291 U.S. 410 - Ex parte Colombia - 214 U.S. 510.

Mooney v Holohan - 294 U.S. 682. Section 127 - Sup. Act.

1789. 1871-81, 234, 242 July. Conf. 28 U.S.C. §§ 342

277, 751 28 U.S.C. 471.

We have then a record which seems to tell us that the Division Court appointed which perjured the merits of this difficult and complicated litigation. Turned a deaf ear on the request for a full bench - quite conceivably on the theory that the Court lacked power to act; possibly acting upon misconception, but practice was not followed in this case neither the full bench nor the division whose decision was to govern thereafter to give any independent consideration to the merits of the case in this case.

It is also clear that we may review - denial of motion for New Trial if the Trial Court erroneously excluded from consideration matters which were appropriate to decision on motion. or if it acted on the mistaken view that there was no authority to grant it on the ground - assumed Fairmont James works v. Dub-Fork Co U.S. v Economy Vacuum Oil Co. 210 U.S. 1598 247-40 E.D. 811-84 U.S. 1129. Montgomery Ward & Co. v. Dunham - 211 U.S. 243-41 E.D. 139.

It is urged that such is the case here that the refusal to grant a new trial by the Court of Appeals, involved an error of fact in the of law because the District Judge in making his ruling made legal errors in evaluating the evidence for relief.

We understand that the statute does not compel the Court to adopt any particular procedure governing the exercise of the power but the result would have had reached a more effective administration of the case at hand. These considerations are especially important in view of the fact it would on all matters disenfranchise some Circuit judges of the dear interment of § 118, 1912 Amend., 126 Jud. Cod. 28 U.S.C. § 223 and last resort in the run of an ordinary case but as here the case on statute is foreclosed. Title 28. § 1261, 1292, 1735, 1740, 2515 (a), 2680 (a)(b). The aid in favor of a more practice decision is necessary; but whatever legal basis which was adopted it should be explained so that litigants, posterior judges may become thoroughly acquainted as to why.

The case before the court present interesting politic questions, acts of state; there appear no conflict between panels. it is a unique case that is without preceeding "a Rehearing" period. would just be an Appeal that would reach the merits of the controversy. This is a Civil Action in equity between citizens of different States denying of Diplomatic Relations that have been constantly engaged in the issues of Medical the Armstrong Remedial Plan is the law of the forum and it may govern the case. thus conferring jurisdiction on the U.S. Supreme Court defined. Const. art. III. § 2 Hence it's statutory authority to issue writs of common law to Dist. Courts can be Constitutionally exercised. insofar as such writs are in aid of it's appellate jurisdiction; exert revisory. Appellate power over inferior Courts; expeditious and effective means of confining Courts to lawfull exercise of it's prescribed jurisdiction or compelling it to exercise authority where is a duty to do so F.R.A.P 19.20.

Western Pacific Ry Corp. v. Western Pacific Ry Co. 345 U.S. 247.

Petitioner begs that the Court treat this case with less stringent standards than those drafted by scholar attorneys; Petitioner implied the suggestion *En Banc* because it seemed likely that a majority of all active judges would reach a different result than the Panel assigned to hear the case or which has heard it because he believed was the appropriate resort in the extraordinary case because the issues are intricate enough to invoke the pooled wisdom of the Court of Appeals. or my procedure device by the Circuit which could be sensibly calculated to achieve the ends of Justice ... to hear my Civil Rights Complaint.

Title 28 § 1292, 1795, 1740-1, 2515

The entire non-sitting Judges have not heard the argument[s] nor read the Briefs; and have no vote as far as the opinion of the Panel resolution is concerned. — Presumably; however an opinion states the issues and gives ground for its conclusion and thereby sufficiently alert the minds of expert judges what is at stake. It taps their knowledge of the legal considerations that may lead on the initiative of a non-sitting judge or a sitting judge to a determination of whether on what grounds a "Rehearing" was not called for!

No. only is lacking in sound reason and logic but is utterly incompatible with the Civil Rights principles. It would be but one step short of accepting lawless reprisals as appropriate means of redressing grievances real or fancied.

The power to issue the writ is not at loose construction of the strict limits by the Court and Congress which derive from the very origin on the foundation of this Nation "to exalt the righteousness" to all Humankind. ... Furthermore the U.S. historically has avowed imperative claims of Justice.

Ex Parte v. U.S. 287 U.S. 241.

As of Now Petitioner still remains confined within the boundaries
of the label Psychological Ward.....
During a notoriously illegal forcible transfer in contempt to Sacramento Sup. Ct.
Petitioner's legal Property was confiscated.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

G. NEMP VERA

Date: 15 March 2018