

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

In Pro Se MARCUS D. HAYS — PETITIONER
(Your Name)

vs.

J. SOTO [D. ASUNCION] — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

MARCUS D. HAYS : In Pro Se : In Forma Pauperis
(Your Name)

44750 60TH STREET WEST [96 P.O. BOX 8457 : 93539]
(Address)

LANCASTER, CALIFORNIA, 93536
(City, State, Zip Code)

"(N/A)"
(Phone Number)

QUESTION(S) PRESENTED

PETITIONER, alleges that HIS Trial counsel did not provide for HIS Equitable entitlement, to effective assistance, pursuant to Constitutional standards, as interpreted by precedent established by THIS UNITED STATES SUPREME COURT.

By trial counsels breach of contractual obligations [..and on the record admission of such a need] to call a favorable witness [DNA Expert], on PETITIONER'S behalf.

As complex matters of DNA were outside the scope of trial counsels knowledge. Said DNA Expert for PETITIONER'S defense would have impeached the prosecution's DNA Expert— and thus the prosecution's theory of the case.

As DNA evidence, as presented by the Prosecution served, as the most tenable nexus, to have allegedly established PETITIONER'S involvement with the criminal transaction, and controversy in question.

Did the Ninth Circuit (..and District Courts) err in deferring to State Court findings [.. that did not reach the merits of PETITIONER'S state and Federal Constitutional claims]... and adopt the same, in ITS conclusions and opinion.?

Did the State Courts err, and abuse 'TAHER' discretion..(..Knowledge of that which is just through the law..) by not reaching the merits of PETITIONER'S constitutional claim;

Upon PETITIONER making a prima facie showing [..in all HIS state PETITIONS, found agreeable to the usage and principles of law], An instead of issuing peremptory writ on PETITIONER'S 'ACTIONS', summarily denying the same.?

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:

TABLE OF AUTHORITIES CITED

CASES

	PAGE NUMBER
MILLER-EL v. COCKRELL, 537 U.S. 322, 327 (2005)	10, 14
MASSARO v. UNITED STATES, 538 U.S. 500 (2003)	fn 8, 13,
In re JAMES (1952) 38 Cal. 2d 302	fn 8, 13,
PEOPLE v. TELLO, 15 Cal. 4th 264 (1997)	fn 8, 13,
STRICKLAND v. WASHINGTON, 466 U.S. 668, 693; 104 S.Ct. 2052 (1984)	fn 8, 9,
PEOPLE v. KIM (2009) 45 C4th 1078, 1091.	fn 13,
PEOPLE v. SHIPMAN (1965) 62 C.2d, 226, 230.	fn 13
DRUMMEY v. STATE BOARD OF FUNERAL DIRECTORS (1939) 13 Cal. 2d. 75, 87 P.2d - 848	fn 13

STATUTES AND RULES

28 U.S.C. § 2244	fn 8
§ 2241	fn 8
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OTHER

(SUMMARY OF CALIFORNIA LAW [WITKINS])	
[11 WITKINS EQUITY]	12, 13, 15
[7 & 8 WITKINS CONSTITUTIONAL LAW]	12, 13,

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

SLACK v. Mc DANIEL, 529 U.S. 473, 481, 146 L.Ed 2d 542, 120 S.Ct. 614

-1595 (2000).

BAREFOOT v. ESTELLE, 463 U.S. 880, 77 L.Ed 2d 1090, 103 S.Ct 3388 (1983) 614

STATUTES AND RULES

OTHER

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- APPENDIX G ; SUPREME COURT OF CALIFORNIA CLERK'S OFFICE ; COVER LETTER (correspondence), representing denial of PETITIONER'S REHEARING ON MANDAMUS

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 C 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 B 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 E 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 SUPERIOR (COUNTY OF LOS ANGELES) court appears at Appendix E 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 July 17, 2017 COA denied.

☐ 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: September 08, 2017, and a copy of the order denying rehearing appears at Appendix A.

☐ 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); § 1651, § 1254(4), CIVIL CODE § 52.1(b); CODE OF CIVIL PROCEDURE § 410.10, (SUMMARY OF CALIFORNIA LAW [WITKINS]; [7&8 WITKINS CONSTITUTIONAL LAW [444], [481],]; [11 WITKINS EQUITY [4], [5], [7], [51], [1]]]; [11 WITKINS TRUSTS [6](b),

☒ For cases from state courts:

The date on which the highest state court decided my case was September 09, 2015. A copy of that decision appears at Appendix F.

☒ A timely petition for rehearing was thereafter denied on the following date: alleged as October 01, 2015, 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), § 1651, § 2241(c)(3); CIVIL CODE § 52.1(b); CODE OF CIVIL PROCEDURE § 410.10 [7&8 WITKINS CONSTITUTIONAL LAW [444], [481], [483]]]; [11 WITKINS EQUITY [1], [4], [5], [7], [51]]]; [11 WITKINS TRUSTS [6](b),

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

CONSTITUTION OF THE UNITED STATES AMENDMENT VI

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which the district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

CONSTITUTION OF THE UNITED STATES AMENDMENT XIV; Section 1.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside.

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 to equal protection of the laws.

CONSTITUTION OF THE UNITED STATES ARTICLE VI; Section 2.

This Constitution, and the laws of the United States, which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, any thing in the Constitution or laws of any state to the contrary notwithstanding.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

cont...

CONSTITUTION OF THE STATE OF CALIFORNIA ARTICLE III ; Section 1

The State of California is an inseperable part of the United States of America, and the United States Constitution is the supreme law of the land.

CONSTITUTION OF THE STATE OF CALIFORNIA ARTICLE I.; Section 15

The defendant in a criminal cause has the right to a speedy public trial, to compel attendance of witnesses in defendants behalf, to have assistance of counsel for defendant's defense, to be personally present with counsel, and to be confronted with the witnesses against the defendant.

The Legislature may provide for the deposition of a witness in the presense of the defendant and the defendants counsel.

Persons may not twice be put in jeorpardy for the same offense, be compelled in a criminal cause to be a witness against themselves, or be deprived of Life, Liberty or property without due process of law.

CONSTITUTION OF THE STATE OF CALIFORNIA ARTICLE I ; Section 24

Rights guaranteed by this Constitution are not dependant on those guaranteed by the United States Constitution. In criminal cases the rights of a defendant to equal protection of the laws, to due process of law, to the assistance of counsel, to be personally present with counsel, to a speedy and public trial, to compel the attendance of witnesses, to confront the witnesses against him or her, to be free from unreasonable searches and seizures, to privacy, to not be compelled to be a witness against himself or herself, to not be placed twice in jeopardy for the same offense, and to not suffer

cont...

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

cont...

cont...

... the imposition of cruel or unusual punishment, shall be construed by the Courts of this State in a manner consistent with the Constitution of the United States.

This Constitution shall not be construed by the Courts to afford greater rights to criminal defendants than those afforded by the Constitution of the United States, nor shall it be construed to afford greater rights to minors in juvenile proceedings on criminal causes than those afforded by the Constitution of the United States.

This declaration of rights may not be construed to impair or deny others retained by the people.

(SUMMARY OF CALIFORNIA LAW [WITKINS])

[11 WITKINS EQUITY [5]] (in part)

Equity regards that as done which ought to be done ... The doctrine of equitable conversion rests upon this maxim.

[11 WITKINS EQUITY [1]] (in part)

The subject matter of "Equity" overlaps various areas of the law of contracts, tort, property and other fields

[11 WITKINS EQUITY [2]] (in part)

The procedural distinctions between actions at law and in Equity have largely abrogated.

[11 WITKINS EQUITY [4]] (in part)

Equity looks at substance rather than form.

[11 WITKINS EQUITY [7]] (in part)

"No one can take advantage of his own wrong.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED
cont..

[11 WITKINS EQUITY [8]] (in part).

He who comes into Equity must come with 'Clean Hands'.

A Court will neither aid in the commission of a fraud by enforcing a contract, nor relieve one of two parties to a fraud from its consequences, where both are in pari delicto.

Any unconscientious conduct in the transaction may give rise to the defense.

[11 WITKINS EQUITY [49]] (in part).

Specific performance will be denied where the contract is not just and reasonable.

In other words, equity should not lend its aid to the enforcement of a hard bargain.

[7&8 WITKINS CONSTITUTIONAL LAW [706]] (in part). (a)

"Every person who, under the color of any statute, ordinance, regulation, custom or usage of, any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other persons within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

[7&8 WITKINS CONSTITUTIONAL LAW [707]] (in part). (a)

Under 28 U.S.C. § 1343, Federal Courts have original jurisdiction over actions to (1) redress the deprivation, under color of state law, etc., of any right... etc., secured by the Constitution... or by any act of Congress providing for equal rights," and (2) recover damages, etc., "under any act of Congress providing for the protection of civil rights (28 U.S.C. § 1343(3)(4)).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED
cont..

[T&8 WITKINS CONSTITUTIONAL LAW §708] (a)

Constitutional Rights. The statutory language (deprivation of "rights, privileges, or immunities secured by the Constitution or laws"; see *supra* §706) covers deprivations of the Fourteenth Amendment rights.

STATEMENT OF THE CASE

On the date of April 07, 2014, PETITIONER herein named, moved in Pro se on HIS original PETITION FOR WRIT OF HABEAS CORPUS, in THE SUPERIOR OF CALIFORNIA, FOR THE COUNTY OF LOS ANGELES: [SOUTHWEST DISTRICT - TORRANCE COURTHOUSE].

Said 'PETITION', found agreeable to the usage and principles of law, requiring writ to issue thereon in the peremptory, made a prima facie showing, that PETITIONER was deprived of HIS Equitable entitlement, to effective assistance of counsel, at trial, pursuant to Constitutional standards, set forth by precedent, established by this COURT in STRICKLAND^{1, 3}

Said PETITION was denied on May, 14, 2014 (See and reference APPENDIX
Said denial, was without basis of any reasoned legal authority cited. [summarily denied]
Yet presuming to be upon procedural grounds, as stated in dictum, upon Minute Order.
However, the alleged "procedural grounds", reasoning the basis of said denial, were not within the 'spirit' of adequate and independent, consistently applied State procedural grounds, that PETITIONER, was expected to know about and comply with.

Subsequently, on July 08, 2014 PETITIONER moved in Pro se on PETITION FOR WRIT OF -
ERROR CORAM NOBIS, as a result of THE SUPERIOR COURTS, erroneous denial of PETITIONERS,
HABEAS CORPUS, as a result of an error of fact - having said denial, not citing any legal authority as its basis.

1. PETITIONER was resentenced, in the cause of Account/Case YADT7539, [B286411], as a result, reversal and remand, upon direct appeal. Hence the time when which Legal (Equitable) tolling begins, is measured from the point/period and time of resentencing; and not from the original date of conviction (See and reference 28 U.S.C. § 2244(d)(1)(A); 2241 et. seq.

2. See and reference MASSARO v. UNITED STATES, 538 U.S. 500, (2003) (.. The Supreme Court has specifically held that the preferred procedure, is to bring ineffective assistance of counsel claims on habeas corpus, rather than direct review. See also PEOPLE v. TELLO, 15-Cal. 4th 264 (1997) (same).
See and reference In re JAMES (1952) 38 Cal. 2d. 302 (.. The JAMES Court affirming that there is no time limit for filing State petitions, for Writ of Habeas Corpus.

3. STRICKLAND v. WASHINGTON, 466 U.S. 668, 693; 104 S.Ct. 2052 (1984)

STATEMENT OF THE CASE

However, the COURT OF APPEALS OF THE STATE OF CALIFORNIA SECOND APPELLATE DISTRICT DIVISION SEVEN, having received the PETITION OF CORAM NOBIS, did not file the same.

Consequently, on June 25, 2015, PETITIONER moved in Pro se on PETITION FOR WRIT OF MANDAMUS, in the CALIFORNIA SUPREME COURT, to move said COURT, to compel the lower COURT OF APPEALS, to file and issue a ruling on the merits in the CORAM NOBIS proceedings.

Moreover, THE CALIFORNIA SUPREME COURT was alerted to PETITIONERS Federal (and State) Constitutional claim, via the MANDAMUS PETITION.

Said ACTION of MANDAMUS was denied summarily on September 09, 2015 (See and reference — APPENDIX

Subsequently, on September 24, 2015 moved in Pro se on PETITION FOR REHEARING on MANDAMUS. With the same being allegedly- and presumed denied on November 01, 2015, per a 'Cover-Letter' correspondence, from THE CALIFORNIA SUPREME COURT CLERK'S OFFICE, purporting the quasi denial, yet not bearing signature (authentication) of a Judge nor Justice.
(See and reference APPENDIX

On November 30, 2015 PETITIONER moving in Pro se moved on PETITION FOR WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY, pursuant 28 U.S.C. § 2254, in THE UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA, [Account/Case CV 15-9589].

Said PETITION being found agreeable to the usage and principles of law - requiring writ to issue thereon in the peremptory, made a prima facie showing that PETITIONER was deprived of His Equitable entitlement, to effective assistance of trial counsel, by Constitutional standards set forth by precedent established by THIS COURT in STRICKLAND³

STATEMENT OF THE CASE

On November 29, 2016 THE HON. FERNANDO M. OLGUIN UNITED STATES DISTRICT JUDGE, Accepted the Findings, Conclusions and Recommendations of a United States Magistrate Judge, that did not have cognizance, in the proceedings in question. Having PETITIONER specifically withholding HIS consent to proceed before a UNITED STATES MAGISTRATE JUDGE, by rejecting the offer of contract, for election of a Magistrate Judge. (See and reference APPENDIX D1,2)

And in the same THE HON. FERNANDO M. OLGUIN summarily denied the HABEAS PETITION, and denied Issuance of a CERTIFICATE OF APPEALABILITY (See and reference APPENDIX B1,2,3)

On December 27, 2016, PETITIONER moving Pro se moved on a NOTICE AND SUIT IN EQUITY AND COMPLAINT, TO ANNUL AND SET TO NAUGHT, THE DISTRICT COURTS ORDER (PURPORTING A JUDGMENT) SIMULATING A DENIAL OF PETITIONER'S, PETITION FOR WRIT OF HABEAS CORPUS [on Account/Case CV 15-9589].

As a result of, THE DISTRICT COURT accepting the findings, conclusions and recommendations of a Magistrate Judge, whom had no contractual (nor Equitable) interest in the proceedings in question. And in the same, not reaching the merits of PETITIONER'S federal Constitutional claims. Nor denying the same on procedural grounds.

On January 17, 2017, PETITIONER moving in Pro se, moved on APPLICATION FOR CERTIFICATE OF APPEALABILITY [on Account/Case 16-56912 DC. No: 2:15-cv-09589], in THE UNITED-STATES COURT OF APPEALS FOR NINTH CIRCUIT.

The same was denied on July 17, 2017 (See and reference APPENDIX C). Citing reasons that PETITIONER [APPELLANT] has not made a 'substantial showing of the denial of a Constitutional right citing... MILLER-EL v. COCKRELL, 537 U.S. 322, 327 (2005); 28 U.S.C. § 2253(c)(2).

STATEMENT OF THE CASE

On August 22, 2017 PETITIONER moving in Pro se moved in OMNIBUS ACTION FOR MOTION FOR RECONSIDERATION AND PETITION FOR PANEL REHEARING AND REHEARING EN BANC - "EMERGENCY MOTION UNDER CIRCUIT RULE 27-3", In THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT [...on Account/Case 16-56912 D.C. No. 2:15-cv-09589] ... (i.e.. moving for rehearing on the issue, of why CERTIFICATE OF APPEALABILITY should issue, reaffirming that, PETITIONER has made substantial showing of a denial of a Constitutional right ... warranting C.O.A. to issue. The same was denied on September 08, 2017 (See and reference APPENDIX A)

As consequence and result of all said "ACTIONS" and proceedings aforementioned, PETITIONER moves in Pro se, in this Equitable action in CERTIORARI

REASONS FOR GRANTING THE PETITION

PETITIONER herein named, makes this PETITION with Prayer and Respect.

And moves this HONORABLE TRIBUNAL to grant CERTIORARI, in this cause and matter.

In exercise of IT'S discretionary jurisdiction.

In that the exercise of a Courts discretion (...in part)... is based on what is fair under the circumstance, and guided by the rules and principles of law.

And jurisdiction, is a Courts power to decide a case, an issue a decree.

Having Certiorari, deriving from established methods of the Kings Bench, in maintaining supremacy (...thus uniformity in the Rule of Law), by the Royal Courts.

Against acts in excess of jurisdiction, by lower Tribunal[s]. Certiorari, in said respects being similar to writ of error, is essentially, an Action in Equity - remedy in Equity.

The Principal maxim in Equity -- is -- TO HAVE THAT DONE WHICH OUGHT TO BE DONE...

And rest on the Principle that .. (in part) .. "No one can take advantage of their own wrong..."

(See and reference; SUMMARY OF CALIFORNIA LAW; [WITKINS] [11 WITKINS EQUITY [1.4], [1.5], [1.6], [1.7]])

[7 & 8 WITKINS CONSTITUTIONAL LAW [1.444], [1.481], [1.483],]

To remedy acts, in excess of jurisdiction, amounting to abuse of authority, by inferior TRIBUNALS [state Courts and Federal District/Circuit Courts], with said "Court[s]" denial of PETITIONER'S, in Pro se 'ACTIONS' of collateral relief, not being upon cited legal authority (See and reference APPENDIX A, E, F, G) [And with the State Appellate Court receiving PETITIONER'S Action at CORAM NOBIS yet not filing the same...]

REASONS FOR GRANTING THE PETITION

Nor were such denials, reasoned upon State and or Federal procedural grounds, consistently applied, for PETITIONER to have known about, and thus comply with.

And having all of PETITIONER'S ACTION[s], making a prima facie showing of PETITIONER'S deprivation to HIS Equitable entitlement to Constitutionally effective assistance of counsel at trial.

[... with the same issue being presented to the Appellate State Court, per Action at CORAM NOBIS, and to the State Supreme Court, per Action at MANDAMUS...]

With all said 'PETITIONS', found agreeable to the usage and principle of law, requiring writ to issue thereon, in the peremptory...

(CODE OF CIVIL PROCEDURE §§ 1068, 410.10 ; 28 U.S.C. § 1651)

... Said State and FEDERAL Court (summary) denials, deprived PETITIONER of HIS Equitable entitlement, to substantive and procedural rights of Due Process of Law ([11 WITKINS EQUITY [1],[4],[5],[7]] ; [7&8 WITKINS CONSTITUTIONAL LAW [444],[481],[483]])

Moreover, both State and FEDERAL [District and Circuit] Courts, in said proceedings, where not in keeping with the principle of 'Stare Decisis'.
Namely, the decisions of said COURTS, were not only in conflict with precedent established by Judicatory of concurrent jurisdiction... But in conflict with established SUPREME COURT precedent.⁴

4. STRICKLAND v. WASHINGTON, 446 U.S. 668, 693; 104 S.Ct. 2052 (1984); PEOPLE v. LEDESMA, (1987) 43 C.3d, 171, 218.

MASSARD v. UNITED STATES, 538 U.S. 500 (2003) (... The Supreme Court has specifically held that the preferred procedure, is to bring ineffective assistance of counsel claims on habeas corpus, rather than direct review)... ; PEOPLE v. TELLO, 15 Cal. 4th 264 (1997) (Same); In re JAMES (1952) 38 Cal. 2d 302 (... The JAMES COURT affirming that there is no time limit for filing State Petitions for Writ of Habeas Corpus...)...
[... On CORAM NOBIS, PEOPLE v. KIM (2009) 45 C.4th 1078, 1091 ; PEOPLE v. SHIPMAN (1965) 62 C.2d 226, 230 ; C.C.P. §§ 410.10, 1068 ; 28 USC § 1651] ... [On MANDAMUS ; C.C.P. § 1085 ; DRUMMEY v. STATE BOD. OF FUNERAL DIR.'s, (1939) 13 Cal. 2d 75, 87 P.2d 848

REASONS FOR GRANTING THE PETITION

In *simili materia* ... THE UNITED STATES COURT OF APPEALS, has so far departed from the accepted and usual course of judicial proceedings, upon 'ITS' inquiry and examination in the Certificate of Appealability proceedings — and in the same denying C.O.A.

Thus not exercising ITS appellate jurisdiction, by taking up the controversy and matter in question.

Having PETITIONER satisfying the threshold requirement ... to have C.O.A. issue, in this matter. i.e. satisfying the substantial showing standard, that reasonable jurists could conclude that the DISTRICT COURT [in addition to the State Courts.] erred in dismissing PETITIONER'S HABEAS PETITION.

(See and reference MILLER-EL v. COCKRELL, 537 U.S. 322, 327 (2003) {Id at HN[1b] at 537 U.S. 327 Citing SLACK at 529 U.S. 484, Quoting BAREFOOT at 893 and n.4 77 L.Ed.2d, 1090, 103 S.Ct. 3382} ⁵

Review of the record — in this matter, will conclude that the DISTRICT COURT and the State Courts, did not give full consideration, to the substantial evidence, PETITIONER, put forth in support of HIS Prima facie case, in both the State and Federal HABEAS proceedings.

Therefore, bringing jurists of reason to agree, that PETITIONER'S HABEAS Petition[s] should have been resolved differently.

Insofar ... warranting the UNITED STATES COURT OF APPEALS, to Issue C.O.A. in the matter and controversy in question

⁵ SLACK v. MCDANIEL, 529 U.S. 473, 481, 146 L.Ed.2d 542, 120 S.Ct. 1595 (2000); BAREFOOT v. ESTELLE, 463 U.S. 880, 77 L.Ed.2d 1090, 103 S.Ct. 3388 (1983)

REASONS FOR GRANTING THE PETITION

Moreover, THE COURT OF APPEALS, in not issuing C.O.A., and in the same, deferring to the Federal District and Circuit Court and Lower State Courts departure from accepted and usual course of judicial proceeding, constitutes the APPEALS COURT as sanctioning of such a departure, by the lower State Courts Inasmuch as the APPEALS COURT own departure from the accepted and usual course of judicial proceedings, in denying PETITIONER'S application for C.O.A.

(See and reference SUPREME COURT RULE 10; PART III (a); [11 WITKINS EQUITY [4],[5],[6],[7]]

Having 'all' Lower Courts [State and Federal] passing on the obligation, to exercise judicial jurisdiction ... to that end .. which ought to be reached, in this matter, by the regular administration of the principles of Law and Equity.

(See and reference [11 WITKINS EQUITY [1],[2],[3],[4]])

The exercise of this HONORABLE TRIBUNAL'S supervisory and sovereign power, in this matter and controversy in question is needed ... as the juridical device, to remedy the same

That all 'PARTIES' involved in this matter, may ... HAVE THAT DONE WHICH OUGHT TO BE DONE... and in the same ... have PETITIONER, be afforded HIS Equitable entitlement to Due Process of Law. Owed not only to PETITIONER, but to all citizenry, within the jurisdiction of these UNITED STATES. As the right of Due Process of Law, is an absolute and affirmative covenant, and subject [i.e. Cestui Que] of the Perpetual, Protective and Reciprocal Trust, .. that is the CONSTITUTION OF THE UNITED STATES.

REASONS FOR GRANTING THE PETITION

_____ The written instrument embodying fundamental and organic law.

The authoritative grounds, to be observed by citizenry and entities of Government, as moral ethical obligations.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

M.D. HAYS
without prejudice without recourse

Date: This 09th day of November 2017