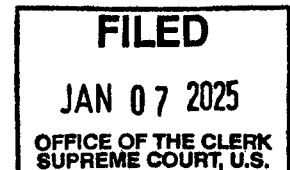


No. 24-7089

ORIGINAL

IN THE  
SUPREME COURT OF THE UNITED STATES



HARRY GARCIA - PETITIONER

vs.

GENTNER DRUMMOND - RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO  
TENTH CIRCUIT U.S., COURT OF APPEALS

\_\_\_\_\_  
(NAME OF COURT THAT LAST RULED ON YOUR CASE)

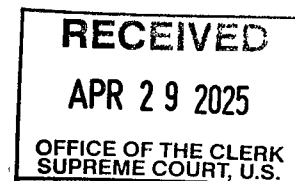
PETITION FOR WRIT OF CERTIORARI

HARRY GARCIA

OSR P.O. BOX 514

GRANITE, OK. 73548-0514

\_\_\_\_\_  
PHONE NUMBER



## QUESTIONS PRESENTED

- 1) Did USDC/WDOK - (Appendix B) effect Abuse of Discretion by failure to allow necessary subpoenas so Petitioner could exercise his 1st Amendment rights of due process of law to prove equitable tolling?
- 2) Did the 10th Cir. - (Appendix A) Violate Due Process of Law by not granting a Certificate of Appealability?
- 3) Did the 10th Cir. - (Appendix A) Abuse of Discretion by not granting a Certificate of Appealability?

## **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**

USDC/WDOK - Garcia v. Drummond - Case # 24-Cv-341-R;

Garcia v. Drummond - 10th Circuit - Case # USA-10-24-6193.

GARCIA V. DRUMMOND / U.S.C. S.Ct.

CORPORATE DISCLOSURE STATEMENT

Pursuant to U.S. S.Ct. Rule 29.6 and Title 28 U.S.C. § 1746 P/A verifies, Certifies and Declares:

- 1) No federal employees, nor agencies are a party to these pleadings;
- 2) No corporations are a party to these pleadings;
- 3) The only party to these pleadings to be served by P/A is the State of Oklahoma via Oklahoma Attorney General Gentner Drummond. (Please See also Certificate of Service Ref same).

This 15<sup>th</sup> day of April 2025.

RS/

HARRY GARCIA  
Harry Garcia P/A Pro se.

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APPENDIX C - USDC/WDOK Magistrates "Report and Recommendation" Case # CIV. - 24-341-R.

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IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that writ of certiorari issue to review the judgment below.

(USA - 10 - 24 - 6193)

**OPINIONS BELOW**

**[X]** For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is **Unpublished**.

The opinion of the United States district court appears at Appendix B to the petition and is **Unpublished**.

## JURISDICTION

☒ For cases from **federal courts**: Title 28 U.S.C. § 1254 (1).

The date on which the United States Court of Appeals decided my case was  
November 27, 2024. (USA - 10 - 24 - 6193)

☒ No petition for rehearing was timely filed in my case.



## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- 1) Due Process of Law
- 2) Abuse of Discretion
- 3) Cruel and Unusual Punishments

Please see record below - and at USA - 10-# 24-6193 Orders of 11/27/2024 @ page 02 - second paragraph.

## STATE MENT OF THE CASE

USDC /WDOK refused to allow subpoenas so Mr. Garcia could subpoena Oklahoma Department of Corrections (ODOC) Records (And/Or Lack Thereof) to prove Legitimate Equitable Tolling to file § 2254 Petition.

10th Cir. Abuse of Discretion by not allowing Certificate of Appealability regarding refusal to allow subpoena to prove Legitimate Equitable Tolling § 2254 Petition.

## REASON FOR GRANTING THE PETITION

1) Petitioner did set forth "Sufficient Facts Showing (at the USDC and USA Level) that the inability to access his own case materials prevented him from bringing a timely § 2254 motion.

2) Moreover, ODOC officials refused to respond petitions verbal & written requests and grievances to return to him his diligently pursued work product stating variously. "I [and 'we'] only respond to subpoenas and court orders when it comes to 'your' legal materials." inter alia Garcia cannot provide evidence unless subpoenaed or court ordered. *Wood v. Millyard*, 721 F.3d 1190, 97-98 (10th Cir. 2013) (discretion to grant conditional writ.)

3) Due Process of Law compels Subpoenas in this case and matter, id.

## CONCLUSION

Miscarriage of Justice - and/or Manifest Injustice; i.e., "All federal courts have the power to issue all writs necessary to ensure substantial justice. *U.S. v. Higdon*, 638 F.3d 233, 45-46.

The 10th Cir. erred by not granting Certificate of Appealability, thereby violating Due Process and Abuse of Discretion.

The Petition for a Writ of Certiorari should be Granted.

Respectfully Submitted,

HARRIS GARCIA

Date: April 15, 2025