

No. 24-7089

IN THE

SUPREME COURT OF THE UNITED STATES

ORIGINAL

FILED

JAN 07 2025

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SUPREME COURT, U.S.

HARRY GARCIA - PETITIONER

VS.

GENTNER DRUMMOND - RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

TENTH CIRCUIT U.S., COURT OF APPEALS

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(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

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PHONE NUMBER

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## 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 B - USDC/WDOK # CIV- 24-341-R - "Order"

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

## TABLE OF AUTHORITIES

### CASES:

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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 if 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 /WDOC 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