

No. 25-324

**In the Supreme Court
of the United States of America**

Δ
RICHARD WILLIAM KLEINHAMMER,

Petitioner,

v.

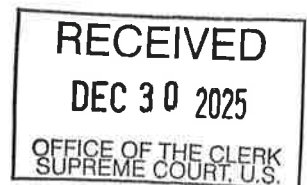
THE STATE OF CALIFORNIA,

Respondent,

Δ
**On Petition for a Writ of Certiorari
To The California Court Of Appeal
Second Appellate District,
Division Six**

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PETITION FOR REHEARING

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RICHARD KLEINHAMMER, pro se
16228 Morro Rd
Atascadero, CA 93422
Phone: (805) 801-1881
Email: txcn1@outlook.com



PETITION FOR REHEARING

Petitioner Richard Kleinhammer's writ of certiorari 25-324 was denied October 14, 2025. The petition for rehearing was timely within 25 days of the denial of writ of Certiorari as provided by Supreme Court Rule 44 and resubmitted following corrections

CONSTITUTIONAL AND STATUTORY PROVISIONS.

U.S.C.A. Const. Amend 14:

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of 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 the equal protection of the laws.

California Penal Code 1273:

An appeal may be taken by the defendant from both of the following:

- (a).....
- (b) From any order made after judgment, affecting the substantial rights of the party.

STATEMENT OF THE CASE

Facts

The United State Supreme Court as described in *Martinez* below may exercise discretion just as the state court of appeal can exercise discretion to allow self-representation on appeal. Particularly where there are exigent circumstances that continue to escalate greater risk to petitioner as a Registrant 18

U.S.C. § 35, 18 U.S.C. § 1038, 18 U.S.C. § 1001, 18 U.S.C. § 844(e) under false pretenses without resolving the actual innocence claim. (See Exhibit A)

The current Circumstances create an emergency to timely resolve the underlying actual innocence claim rather than allowing a technical dismissal at the state appellate stage by refusing to allow self-representation when no attorney would take the case fails to considered petitioners best interest.

A few examples of the exigent circumstances are as follows: a recent November 2025 post on Facebook praises Johnathan Watson a California inmate who killed sex offenders during incarceration back in 2020. Also in California in September 2025 Varun Suresh targeted and killed a registered sex offender. Unfortunately converse results occur as well as seen by the November 26, 2025 recent domestic terrorism inflicted upon two national guards in Washington, DC. The government branding of ex-felons in the USA illegally as being targeted for deportation (clouding removal by asylum request) acts to further exacerbates the Megan's type laws that falsely brands petitioner as will do it again, as if dangerous for life without a hearing simply concocted by the legislature and compounded by tiering which has no nexus to risk. The vigilantes come out of the wood work when the government and news media constantly express the view that those with past offenses are not welcome in the USA, now.

I.

REASONS FOR GRANTING THE REHARING

The above described and present circumstances continue to put petitioner at greater and greater risk and further condones the state appellate

court failure to even exercise discretion to allow self-representation unless reversal is granted.

An order denying certiorari “will not be suspended pending disposition of a petition for rehearing except by order of the Court or a Justice.” Rule 16.3. This most extraordinary relief will not be granted unless there is a “reasonable likelihood of this Court’s reversing its previous decision and granting certiorari.” *Richmond v. Arizona*, 434 U.S. 1323, 98 S.Ct. 8, 54 L.Ed.2d 34 (1977) (Rehnquist, J., in chambers). *Boumediene v. Bush*, 550 U.S. 1301 (2007))[3].

The state court of appeals dismissal was not on the merits of the underlying ground, actual innocence claim given the more recent greater, urgency created from the media, government and private citizens stigmatizing ex-felons as not belonging in the United States. Furthermore the superior court applied the wrong standard of law and did not exercise the required discretion as a 13th juror to assess the actual innocence evidence, it is more likely than not that the convictions will be reversed.

Additionally, certiorari may be granted in cases where there is a showing that eventual reversal is probable, as seen in the context of granting certiorari, vacating, and remanding (GVR) cases, *Lawrence on Behalf of Lawrence v. Chater*, 516 U.S. 163 (1996).

In addition the applicable 2022 effective statute Cal. Pen. Code 1473.7 which cites 1237 that states: “An appeal may be taken by the defendant”. It does not limit the appeal to only by an appellate counsel. There was no consideration of petitioners best interest when no appellate counsel was available.

B. UNDER THE CIRCUMSTANCES DESCRIBED IN FACTS ABOVE SHOW URGENCY

We already leave to the appellate courts' discretion, keeping "the best interests of both the prisoner and the government in mind," the decision whether to allow a *pro se* appellant to participate in, or even to be present at, oral argument. Citing *Price v. Johnston*, 334 U.S. 266, 284, 68 S.Ct. 1049, 92 L.Ed. 1356 (1948)"see *Martinez v. Court of Appeal of California, Fourth Appellate Dist.*, 120 S.Ct. 684, 692, 528 U.S. 152, 163 (U.S.Cal.,2000)(the court of appeal requiring Martinez to accept an attorney did not violate the constitution).

Keeping in mind the best interest of petitioner and government certainly where no attorney is available to hire is a policy that denies due process, particularly given the highly volatile present circumstances like the prosecutor raising O.J. Simpson in closing arguments.

CONCLUSION

The situation has become more and more volatile for petitioner from many media sources for consideration of reversing dismissal (that was not on the merits) under exigent circumstances when no counsel was even available to file an appeal another seemingly impossible circumstance to overcome, given the seldom raised actual innocence claim. The state court policy as applied does not considered the best interest of petitioner which include dangers as well as there was no appellate counsel who would take the case. The state policy as applied violated the Fourteenth Amendment Due process clause.

Please, reverse and remand or reverse the convictions.

The intervening circumstances encompass an urgency to grant relief in the interest of justice.

Respectfully submitted

DATED: November 29, 2025

s/

RICHARD KLEINHAMMER, pro se
16228 Morro Rd
Atascadero, CA 93422
Phone: (805) 801-1881
Email: txcn1@outlook.com

CERTIFICATE OF PRO SE COUNSEL

I hereby certify that this petition for rehearing is presented in good faith and not for delay and that it is restricted to the grounds specified in Supreme Court Rule 44.2.(intervening circumstances)

DATED: November 29, 2025

s/

RICHARD KLEINHAMMER, pro se

LIST OF APPENDICES

APPENDIX A

A few State Cases post Smith v. Doe (2003)...App.1

APPENDIX A

State Cases

South Carolina- The requirement was arbitrary because it did not provide an opportunity for judicial review or any mechanism to assess the offender's risk of reoffending. Lifetime registration without judicial review was not rationally related to the state's legitimate interest in protecting the public from offenders with a high risk of reoffending. *Powell v. Keel*, 433 S.C. 457 (2021)

Pennsylvania Similarly, in *Commonwealth v. Muhammad*, the Pennsylvania Superior Court found that the Sexual Offender Registration and Notification Act's (SORNA) 15-year registration provision violated the defendant's due process rights. The law utilized an irrebuttable presumption that all sex offenders posed a high risk of reoffending, which significantly impacted the defendant's ability to obtain employment, education, and housing. The court held that SORNA failed to provide a meaningful opportunity to rebut the presumption or demonstrate rehabilitation during the registration period (*Commonwealth v. Muhammad*, 241 A.3d 1149 (2020)). In *Commonwealth v. Luciani*, the Pennsylvania Superior Court held that applying a lifetime registration requirement under SORNA to a defendant for conduct that predated the effective date of the law violated the ex post facto clause of the Pennsylvania Constitution. The court found that SORNA inflicted greater punishment on the defendant than the law in effect at the time the crimes were committed (*Commonwealth v. Luciani*, 201 A.3d 802 (2018))[4]. Similarly, in *Commonwealth v. Moose*, the court held that when a sex offender registration requirement is punitive, it effectively

App. 2

increases the criminal sentence agreed upon under a plea bargain, violating ex post facto principles and altering a fundamental term of the plea agreement (*Commonwealth v. Moose*, 245 A.3d 1121 (2021))[5]