

No.25-6671

IN THE
Supreme Court of the United States

M. NORMAN HAMMERLORD,

Petitioner,

v.

HEATHER FERBERT, SAN DIEGO CITY ATTORNEY
AND TODD GLORIA, SAN DIEGO CITY MAYOR,

Respondent.

*On Petition for Writ of Certiorari to the
United States Court of Appeals for the Ninth Circuit*

OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether Petitioner presented any basis for review where the Petition fails to identify a clear question presented or basis for relief.

2. Whether the Ninth Circuit correctly determined it lacked jurisdiction to review the District Court's orders dismissing the case and denying reconsideration when those orders were not timely appealed.

3. Whether the Ninth Circuit correctly denied Rehearing as to the Memorandum Disposition, which determined it lacked jurisdiction to review the District Court's dismissal and reconsideration orders that were not timely appealed.

PARTIES TO PROCEEDINGS BELOW

Petitioner is a resident of the City of San Diego.

Respondents are Mara Elliott, the former San Diego City attorney, Heather Ferbert, the current San Diego City attorney, and Todd Gloria, the current Mayor of the City of San Diego. As these individuals appear to have been named in their official capacities, they are referred to collectively as “the City.”

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INTRODUCTION

Petitioner asks this Court to review an order he has not clearly identified, based on arguments he has not clearly articulated. The Petition fails at the threshold. It does not present a coherent question for review, identify the decision under review, or state any legal basis warranting this Court's intervention.

Even setting aside these deficiencies, the most plausible reading of the Petition reveals a straightforward procedural defect. Petitioner seeks review of orders he never timely appealed. The Ninth Circuit correctly determined it lacked jurisdiction to review those orders, and nothing in this Petition undermines that conclusion.

In short, the Petition reflects a fundamental misunderstanding of basic appellate principles. Respondent respectfully requests the Court deny the Petition.

JURISDICTION

This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATUTES INVOLVED

1. Federal Rule of Appellate Procedure 4(a)(1)(A) provides:

“In a civil case . . . the notice of appeal . . . must be filed . . . within 30 days after entry of the judgment or order appealed from.”

STATEMENT OF THE CASE

A. FACTUAL BACKGROUND

Petitioner has sought both vindication and retribution against the City of San Diego for an incident that happened seven years ago in 2019. This crusade has spanned six courts in two jurisdictions and has included voluminous filings.

The essence of Petitioner’s claim is his dissatisfaction with the San Diego City Attorney’s discretionary decision to not prosecute an individual. This individual, Owen Drewencki, allegedly assaulted Petitioner back in late 2019. A San Diego Police Department Detective, Rene Murillo, forwarded the case to the City Attorney’s Office for prosecution on December 18, 2020.

However, Deputy City Attorney Marcia Harrison sent Petitioner a letter stating she had declined to issue charges against Mr. Drewencki. This decision is the moving force behind Petitioner’s continued litigation against the City, despite being rejected by every court that has touched this case.

B. CALIFORNIA COURT PROCEDURAL HISTORY

Petitioner filed his first lawsuit on this matter on August 7, 2020, in the San Diego Superior Court. (Pet. App. F at ROA No. 1.) The City demurred, primarily arguing that prosecutorial immunity barred Plaintiff's lawsuit. (Pet. App. F at ROA Nos. 12–15.) The Superior Court sustained the demurrer with leave to amend. (Pet. App. F at ROA No. 29.)

Rather than amending his complaint, Petitioner then filed a motion to dismiss his own case and the Court dismissed the action without prejudice in April 2021. (Pet. App. F at ROA Nos. 43, 48.)

A year and a half later, Petitioner filed a Memorandum for the Record requesting a remedy based on the Deputy City Attorney's letter declining prosecution and the City's alleged refusal to honor Petitioner's request to access his "file." (Pet. App. F at ROA No. 54.) Because the case was closed, neither the City nor the Superior Court responded to the filing.

Petitioner then filed a Motion to Reopen his case to file an amended complaint on May 1, 2023. (Pet. App. F at ROA No. 58.) Petitioner based this request on new developments and facts and that he now had time to prosecute the case. (ROA. No. 58 at 3.) He

also filed a Motion for Reconsideration around the same time asking the court to reconsider its ruling on the City's demurrer. (Pet. App. F at ROA No. 59.)

The City filed an opposition to both motions. (Pet. App. F at ROA No. 64.) The City argued the motions were improper and untimely under California Code of Civil Procedure § 1008. (ROA No. 64 at 3–4.)

The Superior Court denied the motion to reopen the case, finding Petitioner failed to cite any legal authority allowing the court to reopen the case two years after dismissal. (Pet. App. F at ROA No. 69.) The Court also vacated the hearing on the reconsideration motion. (ROA No. 69 at 1.)

In September 2023, Petitioner filed a Motion for a Writ of Mandate and a petition for an expedited hearing. (Pet. App. F at ROA Nos. 79–81.) The writ primarily sought relief for access to Petitioner's alleged records he claimed the City possessed but refused to disclose, violating the California Public Records Act (CPRA). (*Id.* at 10.)

Petitioner then filed a Petition for Extraordinary Writ of Mandate in the San Diego Superior Court Appellate Division. (Pet. App. F at ROA No. 91; *Hammerlord v. Elliott*, 37-2023-46232-CU-WM-CTL at ROA No. 1 (Cal. Super. Ct., App. Div. Oct. 20, 2023).) The Appellate Division summarily rejected

this petition as premature. (*Id.* at ROA No. 6 (Cal. Super. Ct., App. Div. Oct. 30, 2023).)

In November 2023, Petitioner then filed another Petition for Extraordinary Writ of Mandate, this time with the Fourth District Court of Appeal. (Pet. App. F at ROA No. 109; *Hammerlord v. Elliott*, No. D083114 (Cal. Ct. App. Nov. 15, 2023).) The basis for this appeal was the same—the City allegedly violated the CPRA when it purportedly ignored Plaintiff’s request for access to records it possessed regarding his “file.” (*Id.* at 10.)

The Court of Appeal denied the Writ finding it was untimely under the CPRA, noting Petitioner filed the writ 931 days after the case was dismissed and 110 days after his motion to reopen the case was denied. (Order Denying Petition Filed, *Id.* (Cal. Ct. App. Nov. 29, 2023).)

Petitioner then filed a Remittitur with the Superior Court Appellate Division on January 9, 2024. (Pet. App. F at ROA No. 110; *Hammerlord*, No. 37-2023-200163-CL-CR-CTL at ROA No. 1 (Cal. Super. Ct., App. Div. Nov. 27, 2023).)

On February 29, 2024, Petitioner filed another appeal in the Fourth District Court of Appeal. (Pet. App. F at ROA No. 118.) The Court of Appeal summarily denied the Writ without explanation.

(*Hammerlord v. Elliott*, No. D083889 (Cal. Ct. App. Apr. 17, 2024).) Petitioner filed a Petition for Review in the California Supreme Court around May 6, 2024. (*Hammerlord v. Superior Court of San Diego County*, S284889 (Cal. May 6, 2024).) This was also denied without comment on July 24, 2024. (*Id.* (Cal. July 24, 2024).)

As far as Respondents are aware, this was the last relevant filing in the California state courts.

C. FEDERAL COURT PROCEDURAL

HISTORY

In the midst of the voluminous state court motions and appeals, Petitioner also filed a Complaint and Writ of Mandate in federal court in April 2023. (*Hammerlord v. Elliott, Gloria*, No. 23-cv-663-JO-KSC at ECF No. 1 (S.D. Cal. Apr. 12, 2023).) Petitioner alleged due process and civil rights violations related to the underlying non-prosecution of his attacker and alleged refusal to provide him with his records. (*Id.* at 11–15.) The City was never served with the complaint and thus never appeared in the District Court or in the Ninth Circuit.

The District Court dismissed the Complaint under a *sua sponte* screening for dismissal pursuant to 28 U.S.C. § 1915(e)(2)(B). (Pet. App. A at 3–6.) The

Court held Petitioner failed to state a claim because his CPRA claim does not amount to a 42 U.S.C. § 1983 civil rights violation. (*Id.* at 4.) His other claims were also dismissed because they were impermissibly brought under federal criminal statutes with no private right of action. (*Id.*)

Petitioner then filed a motion for reconsideration, which was denied. (*Id.* at ROA No. 4 (S.D. Cal. July 5, 2023; ROA No. 5 (S.D. Cal. Aug. 8, 2023).) Petitioner then filed an Amended Complaint on January 2, 2024, along with a Motion and Declaration of Readiness to Proceed. (*Id.* at ROA Nos. 6, 7 (S.D. Cal. Jan. 2, 2024).) The District Court struck both filings as the Court had already dismissed the case with prejudice. (*Id.* at ROA No. 10 (S.D. Cal. Jan. 4, 2024).)

Naturally, Petitioner appealed the Court's January 4, 2024 Order to the Ninth Circuit. (*Id.* at ROA No. 11 (S.D. Cal. Feb. 22, 2024).) Petitioner's notice of appeal was late, but he concurrently filed a motion for an extension of time. (*Id.*) The Ninth Circuit remanded the appeal back to the District Court to rule on the extension of time motion. (*Id.* at ECF No. 14.) The District Court granted Petitioner's request and extended the time for Petitioner to file his appeal. (*Id.* at 3.)

Petitioner's appeal was considered filed in the Ninth Circuit on March 18, 2024. (Pet. App. B.) Over a year later, on July 17, 2025, the Ninth Circuit denied Petitioner's appeal. (Pet. App. C.)

The Ninth Circuit held "[t]he district court did not abuse its discretion in striking Hammerlord's post-judgment filings," which the Court noted were filed months after his case was dismissed with prejudice and his reconsideration motion was denied. (*Id.* at 2.) The Court declined to consider the merits of the orders on dismissal and reconsideration as there was no timely notice of appeal on those orders. (*Id.*)

Petitioner then filed a Petition for Rehearing and to Stay the Mandate. (*Hammerlord*, ECF No. 13 (9th Cir. July 28, 2025).) The Ninth Circuit denied both requests without comment. (Pet. App. D.) The Ninth Circuit issued mandate on November 5, 2025. (Pet. App. E.)

Unsurprisingly, Petitioner filed this Petition for Writ of Certiorari in the Supreme Court of the United States on January 5, 2026. This appeal is timely as the Ninth Circuit's Order Denying the Petition for Rehearing was issued on October 28, 2025, which started the 90-day deadline to appeal. Sup. Ct. R 13.

REASONS FOR DENYING THE PETITION

Petitioner's six-year campaign to vindicate his grievances against the City has hopefully reached its final resting place before this Court. Despite discussing these grievances at length, Petitioner's appeal appears to be entirely procedural and reflects a fundamental misunderstanding of the Federal Rules of Civil and Appellate Procedure.

The Court should reject Petitioner's Writ for two reasons: (1) the basis of this petition and the relief sought is unclear; and (2) if Petitioner is challenging the Ninth Circuit's refusal to review the District Court's orders dismissing his case and denying his reconsideration motion, his petition is untimely.

A. The Petition Does Not Clearly Identify the Relief Requested and the Basis for Such Relief.

Although Petitioner appears to misunderstand the procedural posture of this case, his petition does not clearly identify the issue for this Court's review. Supreme Court Rule 14 requires a direct and concise argument explaining the grounds for granting the writ. Petitioner failed to provide such an argument here.

The question presented asks whether a "new appeals court panel" erred in issuing an order

stating they lacked jurisdiction on an untimely notice of appeal. (Pet. at 1.) But the petition does not make clear which order Petitioner attributes to this “new appeals court panel.”

The Ninth Circuit issued two substantive orders: (1) a Memorandum denying his appeal, and (2) an Order denying his petition for rehearing. (Pet. App. C, D.) Of these two orders, only the first one mentions timeliness. (Pet. App. C at 2.) However, Petitioner makes clear he is appealing from the second order. (Pet. at 18.) The petition does not reconcile this inconsistency.

Nevertheless, Petitioner argues the “new panel” made no attempt to “challenge the previous panel order,” which he claims was legally required. (*Id.*) He cites *Cohen v. Super. Ct.*, 102 Cal. App. 5th 706 (2024) for support, but fails to explain how the decision applies here or why the Ninth Circuit should follow a state decision. (*Id.*)

He then argues the Ninth Circuit should have convened *en banc* to change precedent—but does not state what precedent needed changing. (*Id.*) Finally, he argues a panel cannot overrule a prior panel and must follow precedent—but again does not state with any clarity what panel overruled what prior precedent. (*Id.*)

Thus, the petition does not clearly identify the decision under review, the question presented, or the legal basis for relief. This lack of clarity alone is sufficient reason to deny review.

B. To the Extent Petitioner Challenges the Ninth Circuit’s Refusal to Review the District Court’s Orders, the Petition Is Untimely.

Although the petition does not clearly identify the issue presented, it may be construed as challenging the Ninth Circuit’s refusal to review the district court’s orders dismissing the complaint and denying reconsideration. If so, Petitioner’s argument reflects a fundamental misunderstanding of the Federal Rules of Civil Procedure and the applicable appellate deadlines.

Petitioner appears to contend that the Ninth Circuit denied his appeal partly because it was untimely. (Pet. at 1, 18–19.) He argues this was error because he was granted an extension of time to file his appeal. (Pet. at 18.) Thus, he argues the Ninth Circuit erred in its determination. (*Id.*) However, this argument misapprehends both the scope of the extension and the orders properly before the Ninth Circuit.

In its Memorandum Disposition issued July 17,

2025, the Ninth Circuit explained they were not reviewing the District Court's orders dismissing the complaint or denying the motion for reconsideration. (Pet. App. C at 2.) The Court stated this was because Petitioner did not file a “timely notice of appeal *as to those orders.*” (*Id.* (emphasis added).) Instead, the only order properly before the Court was the District Court’s January 4, 2024 order striking post-judgment filings. (*Id.*)

Petitioner filed his notice of appeal as to the January 4 order late. To remedy this, he concurrently filed a motion for an extension of time to file the appeal with his notice. (*Hammerlord*, No. 23-cv-663-JO-KSC at ROA No. 11-1 (S.D. Cal. Feb. 22, 2024).) The District Court granted his request, extending the time to file an appeal. (*Id.* at ROA Nos. 15, 17.)

It appears Petitioner is confused on the scope of his motion to extend time and subsequent order granting it. The only issue before the District Court on that motion was whether to extend time to allow Petitioner to file an appeal as to its January 4, 2024 order. (*Id.* at ROA No. 11.) The Notice of Appeal very clearly stated Petitioner was only appealing the January 4 order striking post-judgment filings and did not mention any appeal of the prior orders

dismissing the case or denying reconsideration. (*Id.* at 4.)

Consequently, Petitioner's appeal did not include those orders. The procedural history shows Petitioner never filed an appeal on the orders dismissing his case and denying reconsideration. Subsequently, those orders were never before the Ninth Circuit on appeal. Nor could they have; the time to appeal those orders had long passed by the time Petitioner filed his notice to appeal.

In order to have filed a timely appeal of the orders dismissing his case and denying his reconsideration, Petitioner needed to file a notice of appeal within 30 days after the District Court denied his motion for reconsideration. *See* Fed. R. App. P 4(a). Thus, to be timely, Petitioner needed to file a notice of appeal by September 3, 2023, but Plaintiff did not file his notice of appeal until February 2024.

In short, the Ninth Circuit correctly found it lacked jurisdiction to review these two orders: Because Petitioner never actually appealed them and could not have done so timely. (Pet App. C.) Accordingly, the Ninth Circuit appropriately denied the petition for panel rehearing as there was no error in the Memorandum Disposition order. (Pet. App. D.)

Thus, to the extent Petitioner argues the Ninth Circuit erred in finding his appeal from the dismissal and reconsideration orders were untimely, that argument fails. Because Petitioner never appealed the orders, the Ninth Circuit correctly concluded it lacked jurisdiction, and correctly denied rehearing. Review is now foreclosed.

CONCLUSION

The Petition fails for the reasons stated herein. First, the Petition does not clearly identify the decision under review, the question presented, or the legal basis for appeal. To the extent it may be construed as challenging the Ninth Circuit's refusal to review the District Court's dismissal and reconsideration orders, the challenge is untimely and foreclosed by relevant appellate rules. Thus, Respondent respectfully requests the Petition for Writ of Certiorari be denied.

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DATED: April 1, 2026.

Respectfully submitted,

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CERTIFICATE OF WORD COUNT

Pursuant to Rule 33.1(h) and 33.2 of the Rules of this Court, I certify that the accompanying Opposition to Petition for Writ of Certiorari was prepared using Century Schoolbook 12-point typeface and contains 2,644 words, excluding those exempt by Rule 33.1(d), and 15 pages long. This certificate was prepared in reliance on the word count function of the word processing system used to prepare the document.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed this 1st day of April 2026.



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