

IN THE
Supreme Court of the United States

TARA SHENEVA WILLIAMS,

Petitioner,

v.

DEBORAH K. JOHNSON, Acting Warden,

Respondent.

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

REPLY BRIEF FOR THE PETITIONER

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REPLY BRIEF FOR THE PETITIONER

Tara Sheneva Williams submits this reply brief in support of her petition for a writ of certiorari.

1. On the mandate rule, the warden does not cite or distinguish *United States v. Navajo Nation*, 556 U.S. 287, 296 (2009) (“*Navajo II*”). Nor does she discuss the body of law governing a lower court’s interpretation of a higher court’s mandate. Thus, the warden overlooks the likelihood that this Court, in denying rehearing, intended for the Ninth Circuit to apply settled principles of the mandate rule on remand. The warden does not, and cannot, dispute that that a straightforward application of *Navajo II* permitted the Ninth Circuit to conduct deferential AEDPA review of Ms. Williams’ Sixth Amendment claim on the merits.

Instead, the warden asks this Court to sweep this case under the rug. This case, however, is important. The Chief Judge of the Ninth Circuit has requested summary reversal. This posture is drawing attention.*

Denying certiorari would tread into dangerous new territory—drawing substantive guidance from this Court’s summary denial of rehearing. With minimal effort, this Court can resolve this important problem. It need merely issue a short, summary reversal stating that, under established principles of *Navajo II*, the Ninth Circuit should conduct a deferential AEDPA review of Ms. Williams’ claim.

* In addition to the secondary sources cited in the petition, see Will Baude, *Williams v. Johnson: A neglected cert petition on a very troubling issue*, VOLOKH CONSPIRACY (Apr. 10, 2014), <http://www.washingtonpost.com/news/volokh-conspiracy/wp/2014/04/10/williams-v-johnson-a-neglected-cert-petition-on-a-very-troubling-issue/>.

2. The warden takes an untenable approach to construing the Court's jurisdictional statute. Section 1254(1) is just 25 words—permitting review “[b]y writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree”—but the warden quotes no more than one word at a time. Pet. Opp. 9–13. She has no explanation for how the denial of certiorari or rehearing can constitute “certiorari granted.” None exists.

Rather, the warden cites instances where neither the parties nor the Court raised any jurisdictional question. The never-interpreted “certiorari granted” language of the jurisdictional statute, not some case resolved on prudential grounds, controls. This Court has rightly treated its statutory jurisdiction as a matter of vital importance throughout its history. Certiorari is appropriate.

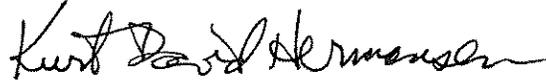
3. Though no appellate court has conducted a deferential AEDPA review of Ms. Williams' claim, the warden dismisses the task as unnecessary. At least half the Justices joining the Court's Opinion, however, believed that the question warranted serious consideration.

The unmistakable subtext of the warden's opposition is that the Ninth Circuit cannot be trusted to engage in deferential AEDPA analyses in the first instance. If Congress wanted to amend Section 1254 to bypass the Ninth Circuit and send such cases directly to this Court, it could do so. It has not. Chief Judge Kozinski has made clear that his mind is not made up. The panel has requested an opportunity to do its Article III job. This Court should grant it that opportunity.

CONCLUSION

This Court should grant certiorari, reverse the judgment below, and remand for deferential § 2254(d) adjudication of Ms. Williams' Sixth Amendment claim.

Respectfully submitted:



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COUNSEL FOR PETITIONER

Dated: May 21, 2014

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CERTIFICATE OF SERVICE

I, Kurt David Hermansen a member of the Bar of this Court, certify that on May 21, 2014, as required by Supreme Court Rule 29, I have served the enclosed REPLY BRIEF FOR PETITIONER on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid. The person so served was Stephanie C. Brenan, Deputy Attorney General, 300 South Spring Street, Suite 1702, Los Angeles, California 90013, (213) 897-2056.

I declare under penalty of perjury that the foregoing is true and correct.
Executed on May 21, 2014.



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