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IN THE SUPREME COURT OF THE UNITED STATES

STEPHEN MORELAND REDD,

Petitioner,

KEVIN CHAPPELL,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITIONER'S REPLY TO CAL. ATTY. GEN. BRIEF IN OPPOSITION

STEPHEN MORELAND REDD
Petitioner - PRO SE -
DEATH PENALTY

CAPITAL CASE
QUESTION PRESENTED

Whether the California Supreme Court denied petitioner his federal constitutional rights in refusing to accept for filing a pro se motion to recall the remittitur in his direct appeal.

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STATEMENT

1. On 9/18/2014, I received the High Court's notice that my petition to the Court to order the California Supreme Court to accept and file my pro se motion to recall the remittitur. That document advised me I must notify the counsel for the respondent [and also real party in interest] of such fact and that any brief in opposition must be filed by 10/15/14.

2. I received the Cal.Atty.Gen'.s brief in opposition, dated 10/15/2014, on Thursday, 10/17/2014. My next possible mail pickup was Sunday evening, 10/19/2014.

3. Being a PRO SE petitioner, This petitioner is unaware as to if the Cal.Atty.Gen.'s last-day-mailing impacts the petitioner's privilege to file a reply/objection to the A.G.'s brief. The petitioner urges that his First Amendment right to petition the government must override any procedural limits. The petitioner relies on First Amendment protections to urge the Court to consider the points noted herein.

ARGUMENT

1. The lower federal courts, the Cal. Supreme Court and the Cal Atty. Gen. urge that I am appealing state law and rules. This is mere misdirection on the part of state agencies and (apparently) a failure to read the large volume of materials needed for a true understanding of the CAL.S.Ct. & A.G.'s actions and motivations by the federal courts below.

2. The petitioner first began asking the Cal. Supreme Court for state habeas counsel in 2002. [See petitioner's original petition to this Court - Attachments Item #3, letter of 1/10/2002 to the Cal. Supreme Court requesting appointment of habeas counsel.]

3. In The BRIEF IN OPPOSITION at page 4, The Cal.A.G. states (in apt part) "Petitioner likewise had no federal constitutional right to proceed pro se in seeking recall of the remittitur in his state appeal. Petitioner was represented by appointed counsel in that appeal, the Cal Supreme Court has not relieved counsel of that appointment, and petitioner presents no basis for believing that said counsel ^{NO LONGER} represents him or would not entertain a request to file such a motion if it were warranted." Although petitioner has repeatedly mentioned to several government agents that his appointed direct appeal attorney now refuses to accept any correspondence from petitioner and, when advised that the Cal.S.Ct.'s use of a new, unbriefed theory of admission of key evidence (no basis for theory on record below) was not allowed by law, and failure to request a rehearing (which would

be mandatory due to no opportunity given to submit briefing on the new theory of admissibility) would necessitate a claim of appellate IAC in state habeas unless she could assist petitioner continue the direct appeal by filing a motion protesting the lack of mandatory opportunity to file supplemental briefing prior to deciding the issue of admissibility of evidence seized by a Federal Park Police officer 1/3 mile into the city of San Francisco during a check of state vehicle laws regarding payment of annual registration fees (with no connection to federal lands or laws).

Following petitioner's letter to the above facts, said counsel wrote back and stated that, due to my position (as related above) she would forward all future communication to C.A.P. (Cal.Appellate Project) attorney Scott Kauffman. I attempted to communicate with said attorney twice following that letter but received no reply either from her or Scott Kauffman.

This petitioner's motion to the Cal.S.Ct. was entitled :
"PRO SE MOTION / PETITION FOR RECALL OF THE REMITTITUR AND REHEARING OF DIRECT APPEAL. ALTERNATIVELY : PRO SE MOTION / PETITION FOR ASSIGNMENT OF ATTORNEY TO ASSIST WITH THIS ACTION TO RECALL THE REMITTITUR AND REHEARING ISSUES."

Thus, the Cal.S.Ct. has been on notice that this petitioner has no representation. The Cal.Suprmerme Court has obviously made no inquiries as to why petitioner needs legal assistance. The same is true of the Cal.A.G.'s office.

This petitioner would welcome assistnce from the counsel (Grace Lidia Suarez) referred to by respondent's counsel but

she refuses to reply to my correspondence. I cannot call her as she has a 1-800 phone number which I cannot access from my cellblock phones.

4. On page 4 of the BRIEF IN OPPOSITION, the Cal.A.G. states "...petitioner's court-appointed appellate counsel presumably still represents him in that appeal or could resume representation if there were reason to do so. There is no apparent reason that appointed counsel could not seek recall of the remittitur if there were reason to do so."

The Cal.S.Ct. has long been on notice of a problem regarding a lack of legal assistance in my case since their decision in 2010 (or should have). Grace Suarez is their appointee and the Cal.App.Project is a Cal. governmental agency allied to the death-penalty review process. Scott Kauffman of C.A.P. has known of attorney Suarez's refusal to assist for more than a year and a half.

5. Respondent's counsel states, on page 5, "Nor, in any event, does the constitution require the state to provide for collateral attacks on its judgments, or to appoint counsel to represent convicted defendants in such collateral attacks to the extent they are allowed. [cite] Accordingly, the delay of which petitioner complains does not violate any federal right that he may assert through federal habeas proceedings." "California provides ample protections for capital defendants in state appeals and habeas corpus proceedings."

As noted by the Central District Court of Cal. noted in its decision in its case # CV 09-02158-CJC, filed 7/16/2014, and

cited in this petitioner's motion to supplement original petition submitted on 7/17/2014, that Court has found the California death penalty system to be unconstitutional and unfair due to excessive delay.

This case is yet another example of that system's callous disregard of great harm and anxiety caused by long delays caused by many problems which arises due to the Cal.S.Ct.'s lack of concern that inmates languish while witnesses die or move, potential retrial evidence is lost and the fact that appellants grow old and life is lost simply because this is what is convenient for the agencies and courts that control California's death penalty system. This petitioner's attempts to file a pro se motion to recall the remittitur began in October-November of 2012. The Cal S.Ct., on notice tyhat I had no representation by the fact that, on my second attempt to file the motion with that Court, petitioner wrote "NOT MY ATTORNEY" [with a arrow pointing to the Court's "cc" to Grace Suarez] and also the words "I have no attorney & havent had one for two years", could have notified petitioner that Grace Suarez was still my attorney of record. That court chose to keep the petitioner ignorant of the fact that Grace Suarez had a duty to continue to represent him. Due to this, the petitioner has lost two years of his life and the potential support and testimony as a percipient witness of his mother who is 91 years old and begining to show signs of mental impairment.

The above is just the "tip of the iceberg" of obvious evidence of the real party's [C.S.Ct.] callousness& standard of operation.

6. On page 6, The Cal.A.G. states, "In due course the Cal Supreme Court will appoint habeas counsel for petitioner, and that counsel will be able to amend the shell petition within three years after the appointment. [cite] At that stage, counsel appointed for petitioner presumably will be able to present, in habeas corpus, any colorable claim of ineffective assistance of trial or appellate counsel."

The Cal.S.Ct. has been telling petitioner that he will receive habeas counsel "in due time". As the U.S. Supreme Court stated in Arizona v. Youngblood 488 US 51 at 58, conduct is an indication of intent. This sentiment was echoed by the Cal. App.Ct. in PV Velasco 124 CR3d.238 at 243, 194 CA 4th.1258,1264.

The conduct of the C.S.Ct. shows that Court has little interest in "due process of law", as the recent decision by the Central District Court attests to [CV 09-02158-CJC].

7. On page 6, the Cal.A.G. states, "Petitioner has not made a substantial showing of the denial of a constitutional right since his inability to file a pro se motion to recall the remittitur involves a question of state law."

Denial of access to the courts is a violation of the First amendment. since the attorney the state has assigned to me refuses to communicate with me, the state is responsible for that fact. the court will only accept my papers through the attorney who will not act in my behalf. That is a de facto denial of access to the courts, a federal constitutional violation.

However, if the Court would prefer to order attorney Suarez to assist with the motion to recall the remittitur, that would resolve this matter.

CONCLUSION

The petitioner would gladly accept the assistance of attorney Grace Lidia Suarez if she were persuaded to do so.

Otherwise, the petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in cursive script that reads "Stephen Moreland Redd".

Stephen Moreland Redd

10/19/2004