ORIGINAL

No. 03-6415

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED
SEP 12 2003
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In re:

SANTIAGO VANEGA,

On Habeas Corpus.

/

ON PETITION FOR A WRIT OF HABEAS CORPUS TO THE
UNITED STATES COURT OF APPEAL
FOR THE NINTH CIRCUIT

PETITION FOR WRIT OF HABEAS CORPUS 28 U.S.C. § 2241

SANTIAGO VANEGA, C-45939
(Your Name)

P.O. Box 715071
(Address)

Represa, CA 95671-5071
(City, State, Zip Code)

N/A

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SUPREME COURT, U.S.

QUESTION(S) PRESENTED

1. Whether the Department of Corrections and the Board of Prison Terms failure to follow the provisions of Penal Code section 190 violates the Constitutional requirement that all states follow its laws pursuant to the Fourteenth Amendment to the United States Constitution;that such failure deprived petitioner of his liberty without due process of law.

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF HABEAS CORPUS

Petitioner respectfully prays that a writ of habeas corpus issue to review the judgment below.

OPINIONS BELOW

Petitioner incorporates herein by reference Appendices A through K

JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C. § 1651; 28 U.S.C. § 2241; and, 28 U.S.C. § 2254.

STATEMENT OF THE CASE

Petitioner fully incorporates herein by reference Appendices A through K, and further alleges:

Petitioner is currently serving a prison sentence of 15 years to life imposed by the State of California in 1982 after a jury convicted him of second-degree murder and robbery. See Abstract of Judgment attached hereto, APPENDIX A.

In his original federal habeas petition, Petitioner contends that the "Department of corrections and Board of Prison Terms have unlawfully extended petitioner's punishment through erroneous interpretation of Penal Code section 190 and deprives petitioner of liberty without due process." Petitioner also contends that respondents have increased his punishment by construing his minimum term of imprisonment as a life sentence with a minimum eligible parole date.

In his Application for Leave to File Second or Successive Petition, the petitioner presented "newly discovered evidence, the Memorandum from the Board of Prison Terms' meeting, to demonstrate how they would interpret the new Penal Code section 190 indeterminate sentences of 15-life and 25-life, and the basis for their decision to not follow the language in section 190, to no avail.

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED
OCT 11 2002
CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

SANTIAGO VANEGA, Petitioner, v. CALIFORNIA DEPARTMENT OF CORRECTIONS, Respondent.	No. 02-72606 ORDER

Before: FERNANDEZ, GRABER and GOULD, Circuit Judges

The application for authorization to file a second or successive 28 U.S.C. § 2254 habeas corpus petition in the district court is denied. Petitioner has not made a prima facie showing under 28 U.S.C. § 2244(b)(2) that:

> (A) the claim relies on a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or
>
> (B)(i) the factual predicate for the claim could not have been discovered previously through the exercise of due diligence; and (ii) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.