No. 09-8222

IN THE

SUPREME COURT OF THE UNITED STATES

Pierre GENEVIER (Pro se) — PETITIONER

vs.

Mr. Brian DeMore,

Respondent

ON PETITION FOR A WRIT OF CERTIORARI TO

Court of Appeals for the Ninth Circuit

PETITION FOR REHEARING

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Petitioner (pro per) and Appellant

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This petition for rehearing refers to the petition for writ of certiorari no 09-8222 (cert xx = pet. for certiorari p. xx) and to the petition for certiorari appendices (App. X).

This petition for rehearing is also on the Internet at:

http://pgenevier.110mb.com/npdf/petrehsupco09-8222-3-12-10.pdf;

The petition for writ of certiorari no 09-8222 is at:

http://pgenevier.110mb.com/npdf/petsupdeportation12-15-09.pdf;

The new petition for writ of certiorari against the LA Superior Court presented concurrently is at:

http://pgenevier.110mb.com/npdf/petrehsupco09-8222-3-12-10.pdf;

DC stands for District Court and Ca9 for Court of Appeals for 9th Circuit.

TABLE OF AUTHORITIES CITED

Recent Cases Supporting Rehearing PAGE NUMBER

United States Constitution / Federal Statutes

California constitution / State Statutes

Treatise, law review, and other references

A Introduction.

The petitioner respectfully moves this Court for an order (1) vacating its denial of the petition for writ of certiorari entered on 2/22/10, and (2) granting the petition. As ground for this motion, petitioner states the following: 1) The bad weather prevented the Court from reviewing petitioner's supplemental brief; 2) the Ca9 order is in conflict with recent decisions; and 3) the Court is presented with a new petition for writ of certiorari in a related case.

B The bad weather prevented the Court from reviewing petitioner's supplemental brief.

Petitioner's supplemental brief sent on 2-1-10 was not delivered before 2-13, and not distributed before the 17th because of the bad weather and Monday holiday, which did not give enough time to the Court to review and to act on the explanation given before the February 19th conference. The supplemental brief explained that Rule 15 requires the opposing party to '*address* ***any perceived misstatement*** *…* ***that bears on what issues properly would be before the Court*** *…*', and it even admonishes the counsel that '*they* ***have an obligation …*** *to point out in the brief in opposition, and* ***not later****, any perceived misstatement …*', and that s**ince** the petition (rightfully) alleges grave (even **criminal**) wrongdoings during the procedures below that bear '*on what issues would be before the Court …*', the lack of opposition from the Solicitor General was **a '*practical*' admission** that the petition's criminal allegations

are true (cert 24-26), that petitioner was granted refugee status (asylum) (cert 22-24), and that the DC had jurisdiction under 1252 (e) (cert 17) [Part C below confirms that the DC had jurisdiction and that the Ca9 intentionally rendered an inappropriately motivated and incorrect decision].

Petitioner also explained that the Ca9 record contains many documents supporting the allegations [including criminal complaints,], and therefore that the Solicitor General practical admission of grave wrongdoings was based on many evidences. If this Court had had the time to analyze the implication of this pleading, it may (or could) have asked the Solicitor General to comment on her practical admission of criminal wrongdoings, and/or immediately confirmed the refugee status, for example. If this Court has a practical admission of **criminal wrongdoings** by one of the highest officials at the USDOJ and does not act on it to let the victim of the alleged crimes being deported **with a full of lies deportation order**, it covers up possible crimes which can be criminal (for some) [18 USC 1512 **c)** and d)].

For these reasons the denial of certiorari should be reconsidered, the Solicitor General should be asked to comment on her practical admissions of criminal wrongdoings and on the well-founded of the jurisdiction arguments, and, then certiorari should be granted to confirm petitioner's refugee status and the DC jurisdiction.

C The Ca9 decision is in conflict with recent decisions.

1)_The Ca9 decision and the petition's arguments.

The CA9 order (App. A) was not properly motivated since it did not explain why the District Court lacked subject matter jurisdiction and why the ('*underlying*') removal order could not be challenged through review of the habeas petition under 8 USC 1252 (e) [See more precise decisions on the same issue below. DeMore's removal order (App. D.1) is not a '*reinstatement*' removal order, so there is no '*underlying*' order in the sense usually used in '*reinstatement case*', and **the order reviewed** in the habeas petition **is only DeMore's order, see** App. C only refers to **DeMore's order**]; and it is in conflict with 2 recent decisions from the CA9 (and 2 other Circuits decisions) petitioner were not aware of when he prepared his petition for certiorari [the recent cases could not be in the law books petitioner researched to prepare his petition, and petitioner, **a pro se**, did not know about the legal databases and search capabilities until 10 days ago].

Petitioner's argument that the DC had jurisdiction to review his petition under 1252 (e) based on the wording of 1252 (a) (5) (Cert 15-16) was correct, but it can be made more precise in light of the 4 cases presented here, so petitioner will now present these recent cases, and use them to rephrase the question and justify the grant of rehearing [see SCP p. 821: '*Questions not presented in the original petition are not foreclosed upon rehearing… White v. Texas, 309 US 631 …*'.]

2) Alcala v. Holder 563 F.3d 1009 (2009)

In Alcala v. Holder 563 F.3d 1009 (2009), the Ca9 wrote: '*Alcala is not entitled to review in this court. See Garcia de Rincon, 539 F.3d at 1138-39 (**explaining that 8 USC 1252 (a) (2) (A) & (e) vest jurisdiction over expedited orders of removal in the District Court**)*', so there is no doubt that the DC had subject matter jurisdiction to review the petition under 8 USC 1252 (e) **[and that the Ca9 knew it], and** the Ca9 order's statement - the '*DC properly concluded that it lacked subject matter jurisdiction*' (App. A) - **is incorrect** with respect to this exception of the Real ID Act, **but**, as seen below, (district,) courts have denied **jurisdiction** under this section because they **thought** that the petitioners did not present (any of) the 3 permissible bases for review under 1252 (e)*, so petitioner will rephrase the question and review the 3 permissible bases for a habeas petition under 1252 (e).

*In *Garcia de Rincon,* the Ca9 Court wrote*: '**B. Both this court and the DC lack jurisdiction to hear de Rincon's habeas petition challenging her expedited removal order**. … this court lack jurisdiction over de Rincon's habeas petition **collaterally attacking her expedited removal order**, because de Rincon does not raise **any of the three permissible bases** for habeas review in this court allowed under 8 USC 1252(e)(2)…*'.

3) The 'rephrased' question.

Petitioner rephrases the question as follow: *Whether **DeMore's removal order*** (App. D.1) *can be challenged through a habeas petition under 8 USC 1252 (e) when **(a)** petitioner is unquestionably an alien, **(b)** he at least alleges in his petition that the removal order is an expedited removal order*

under 8 USC 1225 (b) (1), and ***(c)*** *he presents 3 documents establishing that he was granted refugee status (asylum) by the INS in 2002* [a verification of status listing him as refugee (App. D.3), a valid (not terminated) A3 refugee employment authorization card (App. D.7 p.1) and a (final for collateral estoppels purpose) decision from an AL judge confirming that the verification of status is an evidence of petitioner's refugee status (grant of asylum) (App. D.4)]?

The first requirement for a habeas petition under 1252 (e)(2) is the necessity for the petitioner to be an alien. Here there is no doubt about that, the removal order, the DC order and even the Ca9 order (all) state that petitioner is an alien citizen of France, so this ground cannot be the reason for the stated lack of jurisdiction. **The second requirement** is whether the habeas petition **alleges** that petitioner was ordered removed with an expedited removal order under 1225(b)(1) [in Tom Omondi Mzee Owuor v. Attorney General (08-cv-2277) US District Court for Middle District of Pennsylvania (2009 U.S. Dist. Lexis 95605), the Court wrote: 'S*ubsection (e) of 1252 …. The petitioner* ***has not alleged*** *that his removal order was entered under the expedited removal procedures set forth in 8 USC 1225(b)(1).* ***Accordingly****, this court does* ***not*** *have jurisdiction to consider the petitioner challenge (habeas petition) to his removal order.*']. Here again there is no doubt that petitioner **alleged** in his habeas petition that the order was an expedited removal order under 1225(b)(1) since the DC order (App. C) states that petitioner **incorrectly alleged** that Mr. DeMore's order is an expedited removal order under 1225(b)(1) [Cert 15].

The third requirement is whether the petitioner can prove by a **preponderance of the evidence** that he is '*an alien lawfully admitted for permanent residence,* ***or*** *is a refugee* ***or*** *has been granted non-terminated asylum*' [in *Ali a. AL Khedri v. Daniel J. Sedlock et al.,* US District Court for the Northern District of Illinois, 2009 US Dist. Lexis 98856, the court wrote: *'…the statute is clear that an alien does not retain permanent resident status pending such a review.* ***Accordingly****, we see no way Al Khedri can prove that he is currently a lawful permanent resident and we cannot exercise jurisdiction under 1252 (e)(2)(C).'*]. So the question here is whether petitioner's 3 refugee documents constitute **a '*preponderance of the evidence*** *that petitioner was granted refugee status (asylum) in 2002* and whether he retains this refugee status even after the 1-11-08 removal order?

Here again, there is no doubt that petitioner's 3 refugees documents constitute a **preponderance of the evidence** that he was granted refugee status (asylum) **since** the verification of status listing him as refugee issued by the INS (App. D.3) and ALJ Tolentino's decision confirming that this verification of status is an evidence of petitioner's refugee status (grant of asylum) (App. D.4) **were sufficient proofs of refugee status for the Director of USCIS National Refugee Center,** Mr. Christian, **to issue a A3 refugee EA card** (App. D.7 p.1) that is also an evidence of refugee status as seen in App. D.7 p. 3 [please see letter from and to Mr. Christian (App. D.5 and D.6) confirming that Mr. Christian was informed of the 'contradiction' problems on

the status and still confirmed the refugee status].

DeMore did **not** present any documents justifying that these 3 refugee documents were granted in error (by the status verifier, by ALJ Tolentino or by Mr. Christian) or that the refugee status (grant of asylum) was terminated (a proof of termination of refugee status pursuant to 8 CFR 207.9,); the removal order is not a proof of termination of refugee status, so petitioner still retains his refugee status now (see also Cert 22-23). And **unlike** AUSA Robinson argued, the A3 refugee EA Card dated 12-10-04 (App. D. 7 p.1) **was not revoked** in 2005 as the G845 form (App. D.8) confirms it. Finally, **unlike** AUSA Laske wrote (Cert 22-23), petitioner **never** stated that the status verifier made a '***clerical error***' when he wrote '*refugee*' on the verification of status (App. D.3), on the contrary, petitioner always stated that several status verifiers confirmed on 11-13-02 that they made no error and that they even had the date the refugee status (asylum) was granted (Cert 9), so there is no doubt that the DC had jurisdiction to review the habeas petition under 1252 (e) challenging **DeMore's order**, that it should have granted a hearing pursuant to 8 USC 1229 (a) even if it thought that the removal order was not under 1225 (b)(1) [see 1252 (e)(4)(A)] and that the Ca9 (and DC) order (s) should be reversed.

AUSAs Robinson and Laske **have repeatedly lied** in their briefs to cover up the criminal wrongdoings (cert 25) that took place on petitioner's

case; DeMore knowingly issued a full of lies removal order since he knew petitioner had applied for asylum and had been given EA cards (cert 8-11); and as seen above, the Ca9 **intentionally** rendered an inappropriately motivated and incorrect decision to avoid admitting that petitioner's 3 refugee documents evidence that he was granted refugee status (asylum) by the INS in 2002 and to cover up wrongdoings [The Ca9 could not even (wrongly) argue that the 3 refugee documents were <u>not</u> proof of refugee status because it would have put the responsibility of a fault on Mr. Christian and ALJ Tolentino, and on the INS employees who waited so long to address the issues (not on petitioner, and it would not change that the collateral estoppels doctrine applies even when the ALJ decision is later found to be in error), **so they rendered a badly motivated decision**. Circuit Judge Wardlaw was on the Alcala case panel and CJ Schroeder was on the De Rincon case panel, so they knew that the DC had jurisdiction under 1252 (e) and **they cheated**. To admit that petitioner's 3 refugee documents establish he was granted refugee status (asylum) confirms the frauds (gross miscarriage of justice) that took place during petitioner's asylum proceeding and led to the in absentia decision, so the 1252 (e) review of Mr. DeMore's order indirectly resolves the problems of this in absentia decision also.].

So petitioner is victim of large scale treacheries (conspiracy) involving judges of the Ca9 and DC, and USDOJ and DHS officials to harass and hurt him and cover up criminal wrongdoings, and the Ca9 '***has (so far) departed from the accepted and usual course of judicial proceedings,.., <u>as to</u>***

call for an exercise of this court supervisory power', and certiorari should be granted **according to Rule 10 (a) [See also SCP 272** '*The Court has also granted certiorari to review matters of evidence in cases* ***where the decision below seems to it to be shockingly wrong and thus to present substantial due process questions***. ']. For these reasons the denial of certiorari should be reconsidered, the Solicitor General should be asked to comment on the 3 requirements for a 1252 (e) review and on petitioner's 3 refugee documents as proof that he was granted refugee status (asylum) by the INS, and, then certiorari should be granted to confirm the refugee status and the DC jurisdiction.

D. The Court is presented with a new petition for writ of certiorari in a related case.

The related case against LA County (BC 364 736) describes the county's employees negligence during and after petitioner's asylum proceeding that resulted in him being sent in the street more than 16 times between 8-2002 and 11-2003, among other, and of course that prevented the resolution of the immigration problem earlier [see explanation on use of the **altered** verification of status (App. D. 13) at cert 25], so the 2 petitions are closely related and should be addressed together.

The new petition addresses the same issues of case 09-6525 in an attempt to have the LA County's demurrer to the FAC stricken, but it cites

more legal authorities and arguments justifying the well founded of the petition and it resolves the problem of raising the US Constitution violation in State Courts that may have prevented the review of case No. 09-6525. The Court will also see that there is an '***obvious and public***' controversy on the meaning of the word '***answer***' in CCP 471.5 (even if unjustified) whose resolution determines petitioner's right to a strike of the demurrer and to an entry of default **on a $2 840 000 complaint,** which would make the removal even more unfair and unnecessary. For this reason also the denial of certiorari should be reconsidered, and the two petitions be ruled on concurrently [the Solicitor General, former Dean of the Harvard Law School and expert in Civil Procedure and Constitutional Law, may want to comment this petition as well for the benefits of the Court], and, then both petitions for certiorari should be granted to confirm the refugee status, the DC jurisdiction and the right to a financial compensation for 8 years of suffering.

E. Remarks on the importance of the issues.

Petitioner has made many efforts over 8 years to try to resolve the problems created **initially** by the 4 INS employees who lied on the situation of the INS record in 2002 (cert 9) since he filed administrative complaints, complaints of employees misconduct, civil lawsuits, criminal complaints, judicial misconduct complaints and even 6 petitions for writ of certiorari in this Court, but, as the Ca9 badly motivated and incorrect decision and the

state court summary decision confirm it, there has been an obvious effort to prevent the honest review of petitioner's refugee documents, to ignore the legal authorities in his favor and to render badly motivated decisions to harass and hurt petitioner and to cover up criminal wrongdoings, so the petition is not just about a French refugee being unfairly denied a hearing, **it is also about the integrity of the US Justice system** and **of the US Supreme Court** that has a supervisory role over the Federal justice system.

And since petitioner has described his legal difficulties to the UN General Assembly in the context of his work and presentation of a platform of proposals (to resolve our global problems) that should be evaluated during the UNSG selection process in 2011, **the petition is also about the perception <u>the UNGA (international community)</u> will have of the integrity of the US Justice System and of the US Supreme Court** [See SCP 265 '*The Court also will grant certiorari in cases involving a constitutional challenge to federal statutes or state statutes or* ***actions with significant impact on American Foreign policy****. …; Christopher V. Harbury, …(certiorari granted …'because of the importance of this issue to the government in its conduct of Nation's foreign affairs*')'].

Finally, since petitioner has presented to the UNGA a proposal to limit at 65 the age for Country leaders and IO Chiefs and has denounced the 'lifetime job' prerogative given to the US Justices on <u>management</u>, <u>ethical</u>, <u>psychological</u> and <u>good sense</u> grounds, and this lifetime job prerogative is well

liked by the US Justices as the presence on the Court of 5 older than 75 US justices who have already earned the right to retirement **with full pay** shows, the petition is also about the capacity of the US Justices to avoid letting their judgment be affected by the fact that petitioner has criticized their lifetime job prerogative and their way of working (in an effort to improve the system), to give this (very poor) French refugee, victim of grave wrongdoings, a fair review of his justices problems and an extra consideration due to his pro se status (and poor language skills).

F Conclusion.

For the reasons set forth above, as well as those contained in the petition for writ of certiorari, petitioner prays that this Court grant rehearing of the order of denial, vacate that order, grant the petition and review the 7-22-09 Ca9 order.

Respectfully submitted,

Pierre Genevier

March , 2010

Certificate

I, petitioner, hereby certify that the petition for rehearing is presented in good faith and not for delay and is restricted to the ground specified in Rule 44.2.

Pierre Genevier

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PROOF OF SERVICE

I, Pierre Genevier, do swear or declare that on this date, March , 2010, as required by Supreme Court Rule 29, I have served the enclosed '**Petition for Rehearing'** on each party to the above proceeding or that party's counsel, and on every other person required to be served, by hand delivering or faxing or emailing or mailing the above documents.

The names and addresses of those served are as follows:

Mr. Tim Laske, Assistant US Attorney, Attorney for Mr. DeMORE**, at** Room 7516 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012, Fax: (213) 894-7819**.**

The Solicitor General of the United States, Room 5614, Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530-0001.

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

Executed on March , 2010

Pierre Genevier

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"As required by Supreme Court Rule 33.1(h), I certify that the document contains _2994_ words and less than 30 pages, excluding the parts of the document that are exempted by Supreme Court Rule 33.1(d).
"I declare under penalty of perjury that the foregoing is true and correct.

"Executed on _____, 2010.

_____

Pierre Genevier