

**10-1265 MARTEL V. CLAIR**

DECISION BELOW: 05-99005

LOWER COURT CASE NUMBER: 05-99005, 08-75135

**QUESTION PRESENTED:**

At the end of ten years of capital federal habeas corpus proceedings in the district court, respondent suddenly complained about and sought replacement of his court-appointed public defender with a new appointed lawyer. The district court refused, explaining that "it appears Petitioner's counsel is doing a proper job" and that "[n]o conflict of interest or inadequacy of counsel is shown," and thereupon issued its ruling denying habeas corpus relief. On appeal, however, the Ninth Circuit appointed a replacement lawyer, vacated the judgment, and remanded for further proceedings to allow the new lawyer to raise additional claims for relief. The Ninth Circuit explained that no showing of ineffectiveness of counsel was required, for it was enough that Clair had expressed "dissatisfaction" and had alleged that the public defender was failing to pursue potentially important evidence.

The Question Presented is:

Whether a condemned state prisoner in federal habeas corpus proceedings is entitled to replace his court-appointed counsel with another court-appointed lawyer just because he expresses dissatisfaction and alleges that his counsel was failing to pursue potentially important evidence.

CERT. GRANTED 6/27/2011