

IN THE  
SUPREME COURT OF THE UNITED STATES

TIMOTHY L. RODRIGUEZ - PETITIONER

vs.

DEWAYNE B RTON - RESPONDENT(S)

PETITION FOR REHEARING

Limited to Intervening Circumstances of a Substantial  
or Controlling Effect or to other Substantial  
Grounds not Previously Presented

NOW COMES, Timothy L. Rodriguez, Petitioner In Pro Se, and a twice  
Honorable Discharged U.S. Army Veteran, and I beseech this Honorable  
Court to reconsider its order of November 13, 2018, denying Petition for  
Writ of Certiorari. This Court has jurisdiction in the entitled case  
pursuant to 28 U.S.C. §§1254, 1257; Sup. Ct. Rules 10 et seq.

The legal issue for rehearing warrants judicial discretion and is  
of such imperative public importance as to justify deviation from normal  
appellate practice and to require immediate determination in this  
Court. 28 U.S.C. §2101(e). This Court's denial of the petition  
previously filed was not an adjudication on the merits.

Petitioner believes that all the issues raised in his original  
Petition for Certiorari requires judicial review and that exceptional  
circumstances warrant the exercise of this Court's discretionary powers  
for adequate relief. When subject matter jurisdiction is the core issue

of Petitioner's Constitutional claims and he has exhausted every remedy for relief, Petitioner relies on this Honorable Court to exercise its discretionary powers to address the merits raised in the petition,

#### LEGAL ISSUE FOR RECONSIDERATION

This Court did not address whether or not the lower Court obtained subject matter jurisdiction. The State authorities failed to follow their policies and/or operating procedures requiring either a warrant request or discharge of a detainee within forty-eight (48) hours of arrest. U.S.C.A. Const. Amend. 4. A procedure which is the very essence of Petition's Subject Matter Jurisdiction/Void Judgment. This Court's denial of the petition, absent adjudication of Petitioner's subject matter jurisdiction, conflicts with relevant decisions of this Court.

Petitioner believes that his Constitutional claim of subject matter jurisdiction requires a reversal must be vacated as a matter of law. This would be consistent with several U.S. Supreme Court Rulings. (i.e., *County of Riverside v. McLaughlin*, 500 U.S. 44, 111 S.Ct. 1661, 114 L.Ed.2d 49 (1991); *Gerstein v. Pugh*, 420 U.S. 103, 95 S.Ct. 854, 43 L.Ed.2d 54

#### JURISDICTION OF THE SUBJECT MATTER

The existence of subject matter jurisdiction may be raised at any time, by any party, or even *sua sponte* by the court itself. In re Lewis, 398 F.3d 725, 739 (6th Cir. 2005). Moreover, the parties cannot confer subject matter jurisdiction where it does not otherwise exist. *Sweeton v. Brow*, 27 F.3d 1162, 1168-1169 (6th Cir. 1994) citing *Bauxites*, 456 U.S. @ 703; 445 F.3d 899 (6th Cir. 2006)

This Court has admonished the State Court's from this kind of illegal police practice but has failed this Petitioner by not addressing an exact same issues that this Court would otherwise vacate and remand.

It is well established that a court is without power to render a judgment if it lacks jurisdiction and that everything done under the judicial process or the court not having jurisdiction is, ipso facto, void. *Martin v. Hunter's Lessee*, 14 U.S. 304, 364, 4 L.Ed 97 (1816).

#### CONCLUSION AND RELIEF REQUESTED

This Court's rulings in *Riverside v. McLaughlin and Gerstein v. Pugh*, *supra*., are pertinent to Petitioner's case and requires a full adjudication on the merits presented.

Therefore, Petitioner would ask this Court to order Respondent(s) to show cause as to how jurisdiction was obtained.

Also, order Respondent(s) to explain the missing docket entries from November 27, 1997 to December 10, 1997, whereas, Petitioner was taken into custody on a warrantless arrest on November 27, 1997, and fingerprinted on November 28, 1997, where he remained in detention until December 10, 1997 when a complaint and warrant for Petitioner's arrest was issued. Court records will show that the District Court docket entries begin on December 10, 1997.

For the reasons stated above, Petitioner would pray this Honorable Court to grant Certiorari, Order the Michigan Department of Corrections to release Petitioner of his illegal restraints immediately and without further delay. Order the lower Court to quash the unlawful arrest warrant and Order all proceedings from December 10, 1997, and thereafter, null and void with prejudice.

In the alternative of granting Certiorari, Order Petitioner an appointment of Counsel for oral argument in the event this Court orders a response from the Respondent(s), and Order any other relief this Petitioner is entitled to.

Lastly, in the event that this Court should deny this Petition for Rehearing, Petitioner humbly requests the Justice(s) for a judicial resolution by explanation and conclusion for their denial based on the merits originally filed June 22, 2017 to present day.