

IN THE
SUPREME COURT
OF THE UNITED STATES

No. _____

In re : Eric M. Richardson;

Eric M. Richardson,
Petitioner.

vs.

T. Stawart, Prison Administrator,
Custodial Defendant.

NEW SUE OUT OF COMMON LAW WRIT OF HABEAS CORPUS, IN THE PURSUANT OF THE
Article 1, section 9, clause 2, OF THE CONSTITUTION OF THE UNITED STATES,
AND SUPREME COURT RULE 21: 2 From Conviction, and Sentence of United
States District Court for the Northern District of MD's Case No. 09-0288:

Sui Juris, Presentment
Self Representative
Eric M. Richardson
U.S. Marshal No. 44241-037
P.O. Box # 1000
Federal Prison Camp Cumberland
Cumberland, Maryland 21501

JURISDICTIONAL

This Honorable Supreme Court has judicial jurisdiction, to entertain and provide the parties just redress, and demands of relief by the delegated authority of the Article 3, section 2, of the Constitution of the United States, and by congressional statutory section 1651, of the Title 28, of United States Code, " (ALL WRIT ACT)."

RELIEF SOUGHT

Petitioner Eric M. Richardson, seeks as relief as the follow:

His immediate release from all unlawful restraints upon his human body, and civil liberty rights, privileges, and immunity, as enjoyed by all free persons, in the United States.

INTRODUCTIONAL

Procedural Background :

On May 28, 2009, said Petitioner Eric M. Richardson, was alleged to had been indictment by a Federal Grand Jury. The charging instrument herein, is alleged to had been returned on May 26, 2009, in the United States District Court, for the Northern District of Maryland, operating business in the city of Baltimore. That charging instrument (indictment) are alleged to consist of two separate counts :

" The count one, are alleged to held accusations of crime conducts that was in violation of " Conspiracy to participate in Racketeering Activity," in violation of Title 18 U.S.C. §§ 1961(4), and 1962(d), and also in violation of the Title 21 U.S.C. §§ 841(a), and 846, the Grand Jury's accusations of the crime conducts, was held in the (indictment's) paragraphs 3 through 24, of 34 pages charging instrument, the count two of the said charging instrument(indictment) held the same accusations held in the instrument's count one paragraphs 3 through 14, and paragraphs 17 through 24, as to crime conducts of Conspiracy to possess with intent to distribute Controlled Substance in violation of Title 21 U.S.C, §§ 841(a), and 846.

Petitioner Richardson, was brought before the ~~federal district~~ court, herein, on May 28, 2009, in a proceeding title initial appears, at that relevant time and place the federal district court were presented with the facts of this petitioner's suffering with multiple mental and physical maladies, and prior to his arrest had been under psychologist and psychiatrist care for more then a year.

On July 23, 2009, an arraignment hearing proceeding was conducted in the federal district court, and again Petitioner's mental maladies was presented to that court.

On July 26, 2010, Petitioner Richardson, plea guilty to the count two of the Grand Jury's indictment, and again Richardson's mental maladies was presented before that court.

On December 1, 2010, Richardson was sentenced to a term of 180 months imprisonment, and five(5) years supervised release upon completion of the imprisonment term, and again Richardson's mental maladies was presented to sentencing court.

During Pre-trial stages :

On August 5, 2009, a writ of habeas corpus in pursuant of title 28 U.S.C. § 2241(c)(3), was filed in the trial court, it was dismissed without notice or opportunity to be heard in September 2009, the instrument consisted of lawful, and fundamental interests challenging that court's jurisdiction, and substantial rights deprivation.

Post-trail Proceedings and Remedies soughted:

In 2012, Petitioner Richardson, filed his initial § 2255, that remedy petition, was ruled procedurally barred in 2013.

Petitioner Richardson sought certificate of appealability in the Fourth Circuit United States Court of Appeals, in 2013, that motion was denied.

Also in 2013, Richardson, sought a writ of mandamus in the trial court soughting a responds to his pre-trial writ of habeas corpus, that motion was also denied... Allegations of the writ of habeas corpus dismissal was lawfully dismissed in September 2009, even though Petitioner was never notified of the proceedings that was conducted in his pro se writ in his absent.

On August 7, 2014, Richardson filed a writ of habeas corpus in pursuant § 2241(c)(3), in that instrument he sought resentencing and immediate release in light of Descamps v. United States, and Alleyne v. United States, the writ was dismissed after three years, on August 9, 2017.

An appeal before the Fourth Circuit " United States Court of Appeals, was

denied in December 2017. A writ of certiorari was sought in this Honorable Court, but was denied.

STATEMENT OF FACTS

Petitioner Eric M. Richardson are unlawfully restraint of his free hold on life, liberty and personal and private property, in violation of the Constitution, and laws of the United States.

STATEMENT OF CASE

The Fifth Amendment's " Grand Jury Clause," holds a substantial interests that set forth as follow : that a person accused of a federal offense(s), can only be trial on an offense made out in a presentment, or indictment returned by a independent Grand Jury panel. On or about May 26, 2009, allegedly a Grand Jury panel that was assembled in the United States District Court for the Northern Division of Maryland, in the city of Baltimore returned its two counts indictment against a street gang alleged to be called the PDL Bloods, and several of their alleged associates. The charging instrument (indictment) herein, question held in its' count one the accusations of the paragraphs 3 through 14, as crime conduct of an enterprise, in violation of title 18 U.S.C. §§ 1961(4), and 1962(d), for the purposes of racketeering participation, in that same count one the Grand Jury inscribed title 21 U.S.C. §§ 841(a), and 846 as found to paragraphs 15-16, the Garnd Jury enlisted an Overtact, an administrated accusations of crime conduct of other persons' and their involvement.

The Grand Jury set forth in its indictment's count two the accusations of conspiracy in violation of title 21 U.S.C. §§ 841(a), and 846, by realleging and incorporating paragraphs 3 through 14, and paragraphs 17 through 24.

Although the identical name of Eric Richardson does appears on the indict-

ment's pages 3, and 31. The charging instrument failed to apprised, either the Petitioner, or the courts of a crime conduct attribute to petitioner, that could lawfully sustain conviction based upon the title 21 U.S.C. § 841(a), there is no crime conduct attribute to Petitioner's person... The Grand Jury specifically realleged and incorporated its accusations of the crime conducts in paragraphs 3 through 14, and paragraphs 17 through 24, as its reasons for the charged offense of § 841(a) possess with intent to distribute a controlled substance, it was also the same Grand Jury that realleged and incorporated paragraphs 3 through 14, and paragraphs 17 through 24, as to the charged offense in violation of title 21 U.S.C. § 846, and again neither paragraphs inscribed by the Grand Jury set forth an apprised of a crime conduct attribute to Petitioner.

The Sixth Amendment substantial rights, to fair notice, exists in conjunction to the Fifth Amendment's substantial right to indictment, and Equal Protection Clause guarantees Petitioner Richardson, same fundamental safeguards to assure those substantial rights in the courts of the United States.

A plea agreement, are found to be equal to a contract under administration laws, however, unless waiver by Petitioner in open court, on the record it cannot replace the right to indictment... nor does a plea agreement gives neither the court, or the government the right of a grand jury, nor the power to deprive an accused person fundamental fairness.

The Fifth Amendment's Equal Treatment Clause service to protect and accused substantial rights from arbitrary governmental persecution in violation of the laws of the United States. The Congress enteracted title 18 U.S.C. § 4241 seq. al to assured an accused person such as Richardson, receive a fair opportunity, when Judiciary Advisory committee, set forth Rule 11, of Federal Rules of Criminal Procedure, it does so in light of constitutional laws, and when Congress enteracted

the Controlled Substances Act of title 21 U.S.C. §§ 801, and 802, they does so in light of constitutional laws... Congress set forth crime elements definition, and this Honorable Court has upheld this material facts in its (" stare decisis") settled precedents by preserving such fundamental rights and constitutional safeguards.

GROUND FOR RELIEF

" Jackson v. Virginia, "

Petitioner Eric M. Richardson, is actual innocence, this Honorable Court held in Jackson supra. the an person's state of mind at the time of commission of the crime conduct... are the crime element required to be proven beyond a reasonable, the Federal Controlled Substances Act §§ 801, and 802, holds the same crime elements of " Knowingly and Intentionally," however, the district court and defense counsel was awared that Richardson suffered with multiple mental disorders, they had appropriated time to has him examined in accordingly to title 18 U.S.C. § 4241, and to has a expert (psychologist or psychiatrist) to testify as to whether Richardson's mental disorders either allowed him, to be conscious of his action, or did they prevented his understanding of his conduct.

The Grand Jury's indictment paragraphs 3 through 24, does not apprise Richardson, of what accusations being made applicable to his personal conduct(s) the charging instrument set forth the name Eric Richardson, A.K.A. Father, on the two lists of individuals. But its paragraphs 3 through 24, does not set a date, place or time of Richardson's possess of a controlled substance, nor does it provide an agreement Attributable to him that would sustain a trial, conviction or sentence under a law statute, and in fact the district court's cause of an subject matter to sustain its jurisdiction cannot stand on the Grand Jury's return indictment insofar as criminal case docket No. 09-0288. Because the crime elements of knowingly and intentionally cannot be established to be of factor at

time of relevancy, or the crime conduct occurred.

In Jackson, supra. this Court held that witnesses observed both Jackson, and the victim being ~~intoxicated~~ early when they had left the carry out, and Jackson, testified that he had shot three times into the ground reloaded his firearm, before killing the female victim. While here, Richardson's family had provided the defense counsel Fleckinger, with multiple psychiatry and other medicaments Richardson took daily. The Defense Counsel presented to the court, but both downplayed the substantial right that Richardson would suffered without invoking of the title 18 U.S.C. § 4247, to assured his rights to Due Process fundamental fairness principles, before that court... the severe and ~~grave~~ fact that the court failed to advised Richardson, of the fact that quantity implemented in the plea agreement would violate the Fifth and Sixth Amendments, by his accepting a plea. Because the title 21 U.S.C. § 841(b), is a crime ingredient that must found by a Grand Jury's indictment, and presented to a jury beyond a reasonable doubt. That court failed to advise Richardson, that the plea agreement presentation in its manner cause a structural defect, because no grand jury has found that quantity of the controlled substance (heroin) set at a kilogram or more. See, Appendi v. New Jersey, and Alleyne v. United States.

ARGUMENT

This Honorable Supreme Court, set forth in its settled precedents of the laws specifically to cases of convictions based on devoid of evidence stand as unconstitutional convictions. See Jackson v. Virginia, 443 U.S. 307, 61 L.Ed 2d 560(1979), in light of Thompson v. Louisville, 362 U.S. 199, 4 L.Ed 2d 654 (1960): Holds (that a conviction based upon a record wholly devoid of any relevant evidence of a element of the offense charged is unconstitutional, found the record-~~is~~-devoid of evidence. In this present case of Petitioner Eric M.

Richardson, on May 28, 2009, petitioner appeared before the United States District Court for the Northern District of Maryland, by way of force allegations of a federal "Grand Jury," indictment was return against a total of 34 individuals several of those citizens, are accused of a street gang calling themselves the PDL Bloods, and there associates. Petitioner Richardson is being accused as a associate who conspired with a member, or members of the PDL Blood Street Gang, however, the Grand Jury, does not apprise in the charging instrument a element such as an "Agreement" attributed to a conduct of the Petitioner Eric M. Richardson, nor does the Grand Jury, apprise Petitioner Richardson, of the crime ingredient as to the target "Controlled Substance" which he was accused of possession, and distribution... Thus, the Government constructive in its statement of material facts, and during its presentation, that the conspiracy to possess with intent to distribute the controlled substance ("Heroin") was the target controlled substance which Petitioner Richardson, had agreed to possess with intent to distribute, was "heroin."

The Grand Jury, in its return charging instrument (indictment) failed to apprise Petitioner of the quantity of the controlled substance "heroin." Thus, the Government constructive in a plea contract the quantity of the controlled substance "heroin" to be one kilogram or more, the also presented in its presentation that they was in possession of evidence of both crime elements, insofar as an "agreement and the amount of heroin of one kilogram or more." this evidence was never afford to Petitioner, nor was it required to be presented to the trial court. Petitioner Richardson's mental diseases was presented to the district court on May 28, 2009, July 23, 2009, July 26, 2010, and December 1, 2010, See, U.S. District Court for the Northern District of Maryland, criminal case docket No. 09-0288, at ("Dkt 118) of May 28, 2009; July 23, 2009 ("Dkt 218");

July 26, 2010 ("Dkt 778"), and December 1, 2010 ("Dkt 905). The United States Court of Appeals, for the Circuit has set its binding precedent insofar as 21 U.S.C. § 841(a), held in the case of United States v. Randall, 171 F13d 195, set the following as element that must be proven beyond a reasonable doubt factor, (1) The elements of possession with intent to distribute of a narcotic controlled substance are as follows : (a) possession of the narcotic controlled substance. Herein, present of Petitioner Richardson's case no such evidence of possession attribute to him is found. (b) Knowledge of the possession, and Richardson suffered with multiple mental diseases (1) bipolar,(2) post trauma stress,(3) depression,(4) emotional disorders, and (5) schizophrenic, his mental state at the relevant time would had been an aggravating factor as held in Jackson, supra. and a subject matter under title 18 U.S.C. §§ 4241, and 4247, because of the Equal Protection liberty interests in placed, to prove knowledge of the possession, for too reasons (1) because Petitioner was not found in possession of a controlled substance determined a narcotic, and (2) the mere facts that he suffer from multiple mental diseases can only be determined by expert(s) of psychiatrist, or psychologist, not by a judge, defense counsel, government counsel nor Petitioner, hisself. (c) intent to distribute the narcotic controlled substance, the sentencing court recognized Petitioner as an 'addict' suffering with an addition that within itself is a mental disorder continually recognized by medical and judicial agencies even today.

The Fourth Circuit also held in Randall, supra. The elements of distribution of a narcotic controlled substance are as follows; (a) distribution of the narcotic controlled substance. The Government herein, present of Petitioner Richardson's case alleged that his inquiring to his cousin Frank Williams of a 100 tees, is sufficient to satisfy this element, it omission in the government's presentation of that material that in that same conversation Petitioner Richardson and Williams did not curried out the inquiry of the 100 tees, and it would appeared that the

Grand Jury that returned the indictment did not find such evidence to support the crime element in distribution, (b) knowledge of the distribution, "again it would rest upon Petitioner Richardson's mental state at the time of crime conduct(s) that was being alleged to violated the federal statute, which the grand jury failed to presented a time, place, or event(s) of the distribution in their indictment that would apprise Richardson, or established a subject matter jurisdiction for conviction or sentencing purposes. (c) intent to distribute the narcotic controlled substance.

The Fourth Circuit in its decision in the furtherance of its binding precedent in Randall supra., held : The term " distribute" means to deliver a controlled substance (narcotic). Whether or not there exists an agency relationship. Thus, possession means to possess or attempt to possess.

The Grand Jury set forth none of these crime conduct attribute to Eric M. Richardson, and in fact the government possessed no such evidence of this factor the right to be charged on offense(s) made out in a Grand Jury's presentment or indictment is a right of fundamental interests of or on the face of the Fifth and Sixth Amendments in conjunction held in the Due Process Fundamental Fairness Principles. See, United States v. Reyes, 102 F.3d 1361, 1364(5th Cir. 1996)(quoting United States v. Arlen, 947 F.2d 139,145(5th Cir. 1991); United States v. Redd, 161 F.3d 793 (4th Cir. 1998); United States v. Schnabel, 939 F.2d 197(4th Cir. 1998); (en banc) United States v. Floresca, 38 F.3d 706 (4th Cir. 1998).

This Honorable Court held in " Furman v. Georgia, 408 U.S. 235,33 L.Ed 346, in the (Justice Field dissenting)(quoting in O'Neal v. Vermont, 144 U.S. 323, 340, 36 L.Ed 450, 458, 12 S .Ct. 693(The state may, indeed, make the drinking of one drop of liquor an offense to be punished by imprisonment, but it would be an unheard of cruelty if it should count the drops in a single glass and make thereby a thousand offences, and thus, extend the punishment for drinking the single glass of liquor to an imprisonment almost indefinite duration. What the legislature may not do

for all classes uniformly and systematically, a judge, or jury may not do for a class that prejudice set apart from the community.

There is increasing recognition of the fact that the basic theme of equal protection is implicit in "cruel and unusual" punishments. "A penalty... should be considered "unusually" imposed if it is administrated arbitrary or discriminatory.

The same author add that [t]he extreme rarity with which applicable death penalty provisions are put to use raises a strong inference of arbitrariness.

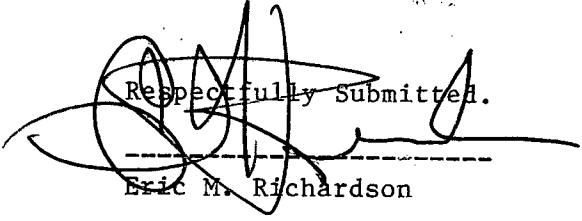
CONCLUSION

When a crime element is left out in an indictment, and a plea agreement or plea contract, is constructively amended for the purposes to "Punish" an individual who are mentally ill, and poor that individual's substantial rights can not be thought less of important then a person who may be representative by an attorney of his chosen. The fundamental invest interests of the right to fairness is not limited to one class of people, where the right to indictment are deprived so are the right to counsel of effective assistance, as well as to the rights of impartial fact finder, fair trial, Equal Protection of the laws, Due Process of the laws. As herein present of Petitioner Richardson's case for more then 10 years stands wrongfully convicted in violation of the Constitution and the Federalism principles, he stands restraint of his civil, personal and private liberty rights, privileges, and immunity in violation of the laws, under a illegal sentence of a 180 months inconsistent with this Honorable Court's holdings in "Apprendi v. New Jersey, 530 U.S. 466, 120 S.Ct. 2348, 147 L.Ed 2d 435, concluded that any "facts that increase the prescribed range of penalties to which a criminal defendant is exposed" are elements of the crime, id., at 490, 120 S.Ct. 2348, 147 L.Ed 2d 435, and thus the Sixth Amendment provides defendants with the right to have jury find

those facts beyond a reasonable doubt. Id., at 484. 120 S.Ct 2348, 147 L.Ed 2d 435. Also see, Alleyne v. United States, 133 S.Ct 2151, 186 L.Ed 2d 314(2013).

" Therefore, of the above reasons asserted herein, and based upon the records Petitioner Eric M. Richardson, should be grant immediate release from all and any unlawful restraints of his liberty rights, and privileges, or that the issuance of the writ be grant for an immediate hearing before the Court on the issues of constitutionality.

Dated: Sept. 3, 2018 :

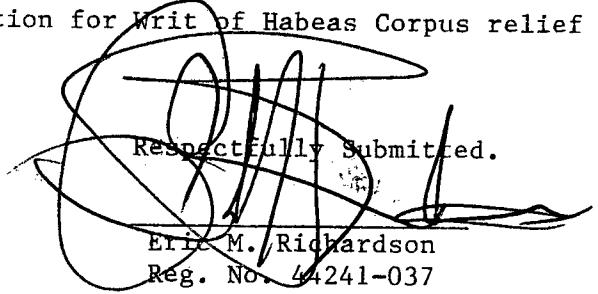

Respectfully Submitted.

Eric M. Richardson

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this ^{3rd} day of the month of September, 2018, a copy of the foregoing Petitioner Eric M. Richardson's Application for Writ of Habeas Corpus relief was mailed prepaid to the following :

Clerk 's Office of the Supreme Court
of the United States, and
U.S. Solicitor General Office
950 Pennsylvania Ave. N.W.
Washington, D.C.
20530


Respectfully Submitted.

Eric M. Richardson
Reg. No. 44241-037
Federal Prison Camp
P.O. Box # 1000
Cumberland, MD 21501

cc: file