

Case Number: _____

IN THE
SUPREME COURT OF THE UNITED STATES

BERNARDO OLIVERES-CEPEDA—PETITIONER

VS.

UNITED STATES OF AMERICA—RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO
THE
SIXTH CIRCUIT COURT OF APPEALS

Bernardo Olivares-Cepeda, Petitioner

#71714-061

FCI-Bastrop

POB 1010

Bastrop, TX 78602

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REASONS FOR GRANTING THE PETITION

1. The lower courts decided an issue that is contrary to the Constitution and laws of the United States and calls for the exercise of this Court's supervisory power.

In *Cruz, et al., v Hauck*, 404 U.S. 59, 64 (1971) this Court noted that "the equal protection concept is not limited to criminal prosecutions, and its protections extend as well to civil matters." What the lower courts said, stripped of all its trimmings, is that Petitioner had no right to be served a denial of his 2255 so he could appeal.

In *Simer v Riss*, 661 F.2d 655 (7th Cir. 1981), that court said that failure to serve was a due process violation and that "the judgment must be vacated." In *In re Hanson*, 397 F.3d 482 (7th Cir. 2005), that court noted that "an elementary and fundamental requirement of due process in any proceeding which is to be afforded finality is notice reasonably calculated ... to appraise interested parties ... [to] afford them an opportunity to present their objections."

Instead of allowing Petitioner to submit a brief in which he could support his claims, the lower courts denied him, the district judge making her judgment without allowing Petitioner his rights. It appears that there is a conflict between the circuits as to whether failure to serve an important document in a civil case violates Due Process and invalidates the judgment. This too calls for this Court to exercise its supervisory power to resolve the conflict.

CONCLUSION

The decision of the lower courts violates the Constitution and must be reversed. Petitioner prays the Court will grant certiorari and remand the case back to the lower courts.


Bernardo Olivares-Cepeda, Petitioner

DECLARATION

By executing this Petition, this 25 day of July, 2018, Petitioner declares the statements made herein to be true under penalty of perjury pursuant to 28 U.S.C. § 1746.


Bernardo Olivares-Cepeda, Declarant