

18-6789

No. _____

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Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

DELROY ANTHONY MCLEAN — PETITIONER
(Your Name)

vs.

UNITED STATES OF AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR ELEVENTH CIRCUIT

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

DELROY ANTHONY MCLEAN REG NO# 99767-020

(Your Name)

POST OFFICE BOX 150160

(Address)

ATLANTA GEORGIA 30315

(City, State, Zip Code)

407 - 965 - 9245

(Phone Number)

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SUPREME COURT, U.S.

QUESTION(S) PRESENTED

- 1) IMMIGRATION JUDGE IS NOT A PROTECTED PERSON UNDER THE STATUE OF 18 U.S.C.S. § 115 (a)(1)(B) .
- 2) THE IMMIGRATION JUDGE IS AS WE HAVE SAID , AN OFFICER CREATED SOLELY BY STATUE , NOT THE CONSTITUTION , AND IS AN OFFICIAL QUITE DISTINT FROM THOSE JUDGES ORDINARILY DEEMED THE FEDERAL JUDICIARY.
- 3) THE STATUTE ONLY PROTECTED MEMBERS OF THE OFFICIAL FAMILY AND NOT THE OFFICIAL THEMSELF .
- 4) THE IMMIGRATION JUDGE DO NOT WORK FOR THE UNITED STATES GOVERNMENT DIRECTLY BUT WORK FOR E.O.I.R. WHICH IS NOT A PART OF THE PROTECT PERSON UNDER THE STATUE 115 / 1114 18 U.S.C.S.
- 5) IF THE COURT DEEMED IMMIGRATION JUDGE AS A PROTECTIONS PERSON UNDER THE STATUTE THEN MCLEAN WOULD CONTENT THE STATUTE IS VOID FOR VAGUENESS UNDER THE CONSTITUTION AND WOULD AMOUNT TO A VIOLATION LAW
- 6) BRADY VIOLATION WHEN THE GOVERNMENT FAILED TO GIVE MCLEAN TRANSCRIPT JENKS.
- 7) THE JUDGE FAILED TO GIVE THE JURY INSTRUCTION OF THE FEDERAL DEFINITION OF A IMMIGRATION JUDGE IN RELATION TO AN JUDICIAL OFFICER.
- 8) THE TRIAL COURT FAILED TO LET MCLEAN REPRESENT HIMSELF WHEN EVIDENCE WAS CLEAR TRIAL COUNSEL WAS INEFFECTIVE TO MCLEAN IN ALL STAGE OF THE PROCEDURESS.
- 9) THE ELEVENTH CIRCUIT FAILED TO APPLY THE LAWS TO ALL MCLEAN LEGAL ARGUMENTS WHICH PREJUDICE DUE TO THE FACT THAT MCLEAN WOULD NOW BE RELEASE BECAUSE THE COURT USED CHARGES THAT MCLEAN WAS NEVER CONVICTED OF .

PLEASE SEE EXHIBIT : INCIDENT REPORT DEALING WITH THIS CASE AND WITNESSES .PLEASE
NOTE MCLEAN HAD NO KNOWLEDGE OF ALLEGE THREAT WAS MADE IN THE COURT ROOM ON THAT
DATE DUE TO FACT HE WAS NOT CHARGE WITH NO INSTITUTION CONDUCT IN RELATION TO
ANY TYPE OF THREAT .

NEVERTHELESS MCLEAN WAS INDICTED AND CHARGE WITH THREAT TO ASSAULT I.J.

18 U.S.C. 115 (a) 1

- 10) IN THE COURT FAILURE TO ACKNOWLEDGE BY BEING A TRIER OF THE THAT IF FAIL
SHORT OF UPHOLDING FAIRNESS , INTEGRITY OR PUBLIC REPUTATION OF THE
JUDICIAL PROCEEDING , WHEN IN FACT HIS CONVICTION EXCEEDED THE STAT-
UTORY MAXIMUM , OF 3 YEARS , PURSUANT TO SECTION 18 U.S.C. 115 HAVING
BEEN CHARGED WITH THREAT TO ASSAULT OF SUBSECTION (4)... A THREAT
MADE IN VIOLATION OF THIS SECTION SHALL BE PUNISHED BY A FINE OF NOT
MORE THAN \$5,000.00 OR IMPRISONMENT FOR A TERM OF NOT MORE THAN 5 YEARS
OR BOTH EXCEPT THAT IMPRISONMENT FOR THREATENED ASSAULT SHALL NOT EXCEED
THREE YEARS.
- 11) THE AUDIO WAS PLAYED IN OPENED COURTROOM , BUT NOT PRESCRIBED OF AS TO
WHERE THE TRANSCRIPTS OF THE 16-MINUTES AUDIO PROCEEDING WERE NOT MADE
AVAILABLE IN THE FORM OF TRANSCRIPTS.
- 12) PETITIONER ENHANCEMENT OF SIX LEVELS FOR THE SAME INITIAL OFFENSE CONDUCT
THAT HAD ALREADY BEEN INCORPORATED IN THE STATUTORY ELEMENTS OF THE
SCRIBED STATUTE UTILIZED IN THE COUNT OF THE INDICTMENT CHARGE.

LIST OF PARTIES

[X] All parties appear in the caption of the case on the cover page.

[] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

MICHELLE LEE SCHIEBER, U.S. ATTORNEY'S OFFICE , MACON GA

AMANDA BROOKE HARRIS , U.S. DEPARTMENT OF JUSTICE , CRIMINAL DIVISION
SECTION , WASHINGTON , DC

MELVIN E. HYDE , JR., U.S. ATTORNEY'S OFFICE , COLUMBUS , GA

MICHAEL MOORE, U.S. ATTORNEY , POPE MCGLAMRY KILPATRICK MORRISON & NORWOOD,
PC , LENOX OVERLOOK , ATLANTA , GA

PETITIONER : DELROY ANTHONY MCLEAN (ALIEN NUMBER A042-256-103;FEDERAL

PRISONER : 99767-020); UNITED STATES PENITENTIARY ATLANTA ;

POST OFFICE BOX 150160 ; ATLANTA GA 30315

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TABLE OF AUTHORITIES CITED

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| 368 F.3D 1343 UNITED STATES COURT OF APPEALS ELEVENTH CIRCUIT U.S.A. vs. GERALD EUGENE BENNETT,AKA WOODY,DEFENDANT-APPELLANT NO.03-11060 MAY 7, 2004 | |
| STATUTES AND RULES | |

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U.S.A. vs. MICHEAL WAYNE KIRKLAND DEFENDANT- APPELLANT UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT 12 F.3D 199;1994 U.S.APP.LEXIS 1220;7FLA WEEKLY FED .C 1146 NO.92-2945 JANUARY 25,1994,DECIDED

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

☒ reported at publish opinion from 11th circuit; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix ^A_____ to the petition and is

☐ reported at court reporter opinion; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was June 8, 2018.

☒ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

This was a direct appeal from the 11th circuit issued on June 8, 2018 pursuant to 28 U.S.C. § 1254(1)

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitution , Article III 34

STATUTES

18 U.S.C.A. § 875(c)27,28,29
18 U.S.C.A. § 115(a)(1)1,14,8,19,21,25,29
18 U.S.C.A. § 1291vii
18 U.S.C.A. § 3231vii
18 U.S.C.A. § 355342,40

REGULATIONS

8 C.F.R § 1001.1 (2009)23

STATEMENT OF THE CASE

DELROY ANTHONY MCLEAN WAS PLACED IN REMOVAL PROCEEDINGS IN 2011 UPON COMPLETION OF AN STATE SENTENCE OF A CHARGE OF CRIMINAL DAMAGE OF PROPERTY UNDER THE STATE OF GEORGIA CODE 16-7-23 . WHICH THE ICE OFFICER CHARGE MCLEAN CHARGE HIM FOR REMOVAL AS CRIME OF MORAL TURPITUDE HOWEVER MCLEAN PROVED TO THE ICE OFFICER WAS INAPPROPRIATE . THE OFFICER LOOKED AT THE CASE LAW AND AGREED AND SENT MCLEAN BACK TO PRISON WITHOUT TAKEN OFF THE DETAINER THE STATE PRISON KEPT MCLEAN FOR TWO (2) MORE YEARS THEN UPON THE COMPLETION OF MCLEAN SENTENCE TURNED MCLEAN OVER TO IMMIGRATION OFFICIALS AND THE IMMIGRATION THEN CHARGE MCLEAN WITH AGGRAVATED FELONY AS A CRIME OF VIOLENCE UNDER SECTION 16 B . ON JUNE THE 30 , 2016 MCLEAN WENT IN FRONT OF THE IMMIGRATION JUDGE FOR A MOTION FOR A BOND HEARING THE IMMIGRATION JUDGE INSULT MCLEAN THE WORSE WAY MCLEAN HOWEVER LEAVE THE COURT SAYING A WORD BACK TO I.J. WHEN MCLEAN WAS CALLED BACK TO COURT ON THE SAME DAY MCLEAN REFUSE TO GO TO COURT HOWEVER THE CAPTION AND MCLEAN HAD A 5 YEAR GREAT RELATION WHOM CONVINCE MCLEAN TO GO BEFORE THE I.J. ON THE SAME DAY WHEN MCLEAN WENT TO COURT THE I.J. ASK THE GOVERNMENT WHAT THERE POSITION WAS ON BOND AFTER THE GOVERNMENT STATE THERE POSITION THE I.J. DENIED MCLEAN BOND WITHOUT THE BENEFIT OF HEARING WHAT MCLEAN HAVE TO SAY IN RELATION TO THE BOND PLEASE NOTE THAT WHEN MCLEAN FIRST WENT TO COURT AT 8 A.M. THE IMMIGRATION JUDGE DID NOT TAKE THE BENCH UNTIL 9 AM WHICH GIVE MCLEAN AMPLE TIME TO SPEAK TO THE GOVERNMENT IN RELATION TO THE SITUATION OF A CRIME OF VIOLENCE DEAL WITH DAMAGE TO PROPERTY OF CRIME OF VIOLENCE , BECAUSE DAMAGE TO PROPERTY IS A ISOLATED WAS WELL ESTABLISHED AS NOT A CRIME OF VIOLENCE DUE TO CRIME OF VIOLENCE AS DAMAGE TO PROPERTY WAS OMIT BY THE SENTENCING COMMISSION FURTHERMORE MCLEAN ALSO MAKE HIS CLAIM AS UNITED STATES CITIZEN IN THE TERM DUE TO ONE OR BOTH OR YOUR PARENTS BEFORE YOU TURN THE AGE 18 WHO WAS ADMITTED AS AN LPR THE IMMIGRATION JUDGE PISS MCLEAN OFF BY ALLEGATIONS THAT WAS NEVER CHARGE TO MCLEAN BY CLAIMING THAT MCLEAN STOCKING THE GOVERNMENT ATTORNEY BIANCA HUDSON BROWN WHO WAS AT THE TIME COUNSEL FOR THE GOVERNMENT THAT WAS HANDLING MCLEAN CASE , BUT WHO WAS NOT AT COURT ON THAT DATE TO REFUTE THE JUDGE CONTENTION OF ALLEGATION.

REASONS FOR GRANTING THE PETITION

THE IMMIGRATION JUDGE IS NOT A JUDICIAL OFFICER UNDER THE CONTEXT OF THE JUDICIAL OFFICER AS IT RELATE TO FEDERAL JUDGE OF THE UNITED STATES THE I.J. DO NOT WORK FOR THE FEDERAL GOVERNMENT DIRECTLY AND THE LAW IS CLEAR IN THIS MATTER THAT IS INDIRECTLY AN FEDERAL EMPLOYEE.

NEVERTHELESS NO CRIME WAS EVER COMMITTED AND HOWEVER MCLEAN UNDERSTAND THE SITUATION AND IMPORTANCES OF THIS APPEAL IS TO ESTABLISH IMMIGRATION JUDGE AS THAT OF A FEDERAL JUDGE SO THAT THEY CAN ENJOY THE BENEFITS AS THAT OF A PROTECTION PERSON AS THAT OF A FEDERAL JUDGE, IN ONLY GRANTING THIS CERTIORARI WILL THIS MATTER REACH THE CORRECT CONCLUSION OF THE IMPORTANCE IN RELATION TO THE INTERPRETATION OF THAT OF THE IMMIGRATION JUDGE IN RELATION TO THAT OF A FEDERAL JUDGE AND WILL ALSO SETTLE THE CONFLICTS NOW BETWEEN THE 11TH CIRCUIT AND 9TH CIRCUIT PRESIDENT DECISION SINCE NOVEMBER 25, 1977 CASE LAW : JUANA ZORAIDA LOPEZ-TELLES

ALSO WILL SETTLE MCLEAN FALSE IMPRISONMENT OF A CRIME THAT HE WAS NEVER CONVICTED OF YET USED AS AN SENTENCE ENHANCEMENT .

If the court had given the jury instructions and subjective intent then the jury could form correct opinion that there was no truth threat which would lead to J.O.A. Please note that this case is a first impression as it relate to criminal charge nevertheless it conflicts with the 9th circuit in dealing with its interpretation of Immigration Judge to that of a Federal Judge .

CONCLUSION

The petition for a writ of certiorari should be granted.

DELROY ANTHONY MCLEAN PRO SE A-0422-56103

Respectfully submitted,

Delroy Anthony McLean
11/15/2018

Date: NOVEMBER 15 , 2018