

18-6968

No. 18-1227

ORIGINAL

CASE. NO:1-15-cr-637=JMC(3)

FILED

SEP 30 2018

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

FROM DISTRICT COURT OF SOUTH CAROLINA

ALEJANDRO QUINONES-LEYVA — PETITIONER

(Your Name)

VS.

UNITED STATES OF AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES DISTRICT COURT OF SC DITRICK OF COLUMBIA

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

PETITION FOR WRIT OF CERTIORARI

ALEJANDRO QUINONES-LEYVA

(Your Name)

555. GEO DRIVE

(Address)

PHILIPSBURG PENNSYLVANIA 16866-813955

(City, State, Zip Code)

N/A

(Phone Number)

QUESTION(S) PRESENTED

ALEJANDRO QUINONES-LEYVA, being duly sworn deposes as true; 1- I am the defendant herein, (2) In connection with pleading and sentencing I received ineffective assistance of counsel in the district court, and additionally defense counsel failed to file a notice of appeal on my behalf from this judgement of conviction, (3) As consequence I now move this honorable Supreme court house, to grant me this writ of Certiorari, to dismiss my conviction and vacate my sentence without prejudice, on July 5, 2016, I was sentenced to 96 months in prison, and 3, years of supervised release. At the conclusion of the sentencing proceedings I instructed my attorney to file a notice of appeal on my behalf, the attorney failed to do so., After I was sentenced I called my attorney on his office phone even on his cell phone on multiple occasions from jail, to again instruct the attorney to file a notice of appeal. to no avail., and then this attorney told me my sentence would be five (5) years, even though with the gun possession that gun was found in my house in the dresser drawer., The 6th. Amendment to the United States Constitution provides for an Accused's right to counsel; "in all criminal prosecutions, the accused shall enjoy the right...to have the assistance of counsel. for his defence." The right to such assistance in a criminal. prosecution means the right to assistance at every stage of the proceeding., United States v. Harrison, 451 F.2d 1013 (2d Cir. 1971); Von Moltke v. Gilles, 332 U.S. 708, 723-24 (1968). United States v. Plattner, 330 F.2d 271, 274 (2d. Cir. 1964). It is whether the deficient performance of counsel prejudiced the defendant, Strickland v. Washington, 466 U.S. 668 (1984); Trial counsel must also inform a defendant about the strengths and weakness of the case against him, as well as the alternative sentence to which he most likely be exposed, Purdy v. U.S., 208 F.3d 41, 45 (2d. Cir. 2000); see also Model of Rules of professional. conduct Rule 1. 4(b) The lawyer Should; it has the attorney he has not disclose or showed any documents of the case., as he stated on his other motions he has not any papers from his case, not at all.,

PLEA AND SENTENCING PROCEEDS:

The U.S. Attorney, for the district of South Carolina, (The government.) Wrote up two (2) different drafts for a formal plea agreement. to accept defendant guilty plea, one of the drafted plea agreement including drug charged but the other didn't it included only firearm charges, defendant declined to sign the plea containing drug charges., because he wasn't involved with drug., instead he just take the plea agreement on the firearm charges., so he claim that, A sentence undoubtedly, greater than necessary., defendant, who doesn't speak, read, or write English, was unable to file a pro-se Notice of appeal by himself., MASSACHUSETTS: COMMONWEALTH V. STAINS, 806 N. E. 2d. 910 (MASS. 2004); ("[E]ffective, Assistance of Counsel includes conducting Adequate investigation."));

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
TEXAS: ALEXANDER V. STATE, 282. S.W, 3d. 701 (Tex. APP. 2009).	
JACKSON V. BRANDSHAW, 681 F .3d 753 (6th. Cir. 2012).	
JOHSON V. UNITED STATES, 83 U.S. L.W. 2015 BL 204915 (U.S.JUNE 26	
MOORE V. MADIGAN, 702 F .3d 933 992 (7th. Cir. 2012).	
PEOPLE V. AGUILAR, 2 N.D. 3d. 321, 328 (III. 2013).	
UNITED STATES V. JENKIS, 772 F. 3d. 1092, 1097 (7th. Cir. 2014);	
BELL ALTANTIC COR. V. TWOMBLY, 550 U.S. 554-555. 127 S.Ct. 1955, 167 L .Ed 2d 929 (2007);	
PENA-RODRIGUEZ V. COLORADO, 137 Ct. 855-867 (2017);	
FARRETA V. CALIFORNIA, 442 U.S. 806 (1975);	
COPPEDGE V. UNITED STATES, 369 U.S. 438 442, N. 8. L. Ed 21 (1962	
PAYTON V. NEW YORK, STEAGALD V. UNITED STATES, THE case. Is	
COMMONWEALTH V. ROMERO, 2018 BL. 147276, PA., 37 EAP 2016 NO: 38	
EAP 2016, 04/26/ 2018.	
UNITED STATES V. GILL, 824 F .3d 653 (7th. Cir. 2016);	
BRADFORD V. KRAMER, 2017 U.S Dist. LEXIS 45700 (S.D. III. Mar. 28	
2017),	
PRUITT V. MOTE, 503 F. 3d 647. 654-655 (7th. Cir. 2007);	

STATUTES AND RULES

18 U.S.C. §§922(G) and 924(A)(2)&(E)
18 U.S.C §3231
18 U.S.C §3553
18 U.S.C.§3742
21 U.S.C.§841
21 U.S.C.§843
21 U.S.C.§846
21 U.S.C.§2191

OTHER

Fed. R. Crim. P. 29
U.S.S.G. §2D1.1
U.S.S.G. §3C1.1
U.S.S.G.§4A1.1
U.S.S.G.§4A2.2

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

CONSTITUTIONAL FREEDOMS:

at 1.) An indigent defendant is Constitutionally Entitled to free "transcripts of the proceedings when that transcripts is needed for an effective defense or appeal." BRITT V. NORTH CAROLINA, 404 U.S. 226. 227 (1971). see also JONES V. SUPERINTENDENT, VIRGINIA STATE FARM, 460 F .2d 150, 152 (4th. Cir. 1972). (It is equally clear that when a need for transcripts in order to Collateral. Attack a conviciton is shown, equal protection and due-process. required the state to furnished an indigent prisoner such. transcript without charge.");

see also, UNITED STATES V. GALLO, NO:88-7534, 1988 WL 60934, at *1 (4th. Cir. May 31, 1988). ("copies of transcripts and court records may be provided to an indigent litigant at governmet exp-ense. upon showing by the litigant of a particularized need for the documents.") as defendant he states that he has seeking those transcripts for litigate his case over the Supreme court house., he didn't state the reason for those documents to the district court for fear to be denied those documents., and it that happen-ed. the court denied those transcripts that he need for litigate his case in this honorable supreme court house of U.S., as he se-eks. for relief over his sentence.,

STATUTORY PROVISION:

Notes of Advisory Committee, 1 This rule is substantially, a restatement. of existing law and practice, 18 U.S.C. [former] §564 [standing Mute]; FORGUS V. UNITED STATES, 34 F .2d 97, (C.C. A 4th.). (duty of court to ascertain that plea guilty is intelligently. and voluntarily made); 2. the plea of nolo Contendere has always existed in federal courts. HUDSON V. UNITED STATES, 272 U.S. 451, 47 S. Ct. 127 71 L. Ed 347; the use of the plea is rec-ognized. by the provision Act, 18 U.S.C. (former) §724 [see §365-1], while at times Criticized as theoretically lacking in logical basis Experience has shown that it performs a useful function from a practical standpoint., so defendant argue that he has a quite misrepreeesntation of his attorney in his case., as he pled at this honorable U.S. supreme court house to deem over this case

STATEMENT OF THE CASE

On September 15, 2015. defendant was Indicted for possession with intent to distribute cocaine in violation of 21 U.S.C. §846 (ECF NO:[2].) On March 18, 2016. Defendant entered into a plea agreement. in which he agreed to plead guilty to being an illegal alien. in possession of a firearm in violation of 18 U.S.C. §922(g) (5). in return for the dismissal of the possession with intent to distribute charge and a sentence of 96 months of incarceration, (ECF NO:[232].) On March 21, 2016 in accordance with the plea agreement, the government filed a superseding information charging. Defendant with violating 18 U.S.C. §922(g)(5). (ECF NO:[228]. defendant pleaded guilty to the charge on March 22. 2016 (ECF NO: [240].) On July 7. 2016 defendant was sentence to 96 months of incarceration, (ECF NO:[280].) and on October 28. 2016 Defendant. filed a Motion to vacate his sentence, the court denied defendant's motion to vacate on May 30, 2018 (ECF NO:[403].) defendant now asserts that his attorney did not provide him with any [of the] documents [from] his case," and he asks the court to provide him with "the most important documents... and the last court order or opinion of (court). as to litigate his case over the supreme court., see e.g.,
defendant sentence was properly adjusted under USSG, §2D1. 1.(b)(I). for possession of weapon IN coneciton with drug offense., UINTED STATES V. FUDGE, (2003. CA7 Wis). 325 F .3d 910

as the defendant Asserts that he has quite deprived of the rights to the documents or the transcripts from his case, he never met any papers from his case no one provide him with none of that., see e.g.,

The Complaint must contain "short and plain statement of the claim. showing that the pleader is entitle to relief." Fed. R. Civ P. 8(a)(2). in BELL ATLANTIC COR. V. TWOMBLY, The Supreme court Explained that the Complaint, must alleged facts that are "enough. to raise a right to relief, above the speculative level." 550 U.S. 554, 555 127 S. Ct. 1955, 167 L Ed. 2d 929 (2007); as defendant grievance he hasn't any documents of his case., to equal dignity of all persons., PENA-RODRIGUEZ V. COLORADO, 137 Ct. 855-867 (2017); i.e.,

REASONS FOR GRANTING THE PETITION

The topic upon this case, on September 15. 2015. defendant was Indicted for possession with intent to distribute cocaine in violation of 21 U.S.C. §846(ECF NO:[2].) On march 18 2018. Defendant. entered into a plea agreement in which he agreed to plea guilty to being an illegal alien in possession of a firearm in violation of 18 U.S.C. §924(g)(5). in return for the dismissal of the possession with intent to distribute charge and a sentence of 96 months of incarceration. (ECF NO:[232]. on march 21 2016. in accordance with the plea Agreement, the governmet filed a Superseding. Information charging Defendant with violating 18 U.S.C. §9-22(g)(5). (ECF NO: [228].) defendant plea guilty to that charge on March 22. 2016 (CEF NO: [240]. on july 7. 2016 defendant was sentence to 96 months of incarceration (ECF NO:[280].) and on octover 28. 2016 defendant filed a motion to vacate (ECF NO: [325 the court denied the motion to vacate on may 30. 2018 (ECF NO: [403] but the issue indeed its when the defendant was deprived of his rights of the legal due process of law;

WHEREAS: his attorney failed to file a notice os appeal on defendant's behalf., that's the most important reason, weights in his attorney., see e.g.,

TEXAS: ALEXANDER V. STATE, 282 S. W. 3d. 701 (TEX. App. 2009). (failure to investigate, develop stragery and make suppression motions can serve as basis for ineffective assistance of Counsel) 6th. Circuit; JACKSON V. BRANDSHAW, 681 F. 3d 753 (6th. Cir. 2012 (failure to take reasonable steps to investigate issues finding concerning the defendant's background and history, can result in a finding of ineffective assistance of counsel); see also,

CONNECTICUT: STATE V. SENQUIZ, 739 A 2d. 1095 (CONN. App. Ct.---2002). (under adversary system, both sides must be given opportunity. to respond to challenge to evidence);

RHODE ISLAND: STATE V. THORNTON, 800 A. 2d 1016 (R.I. 2002). (protections of basic rights is essential to fair administration of justice); so here are some of the reasons that should defendant. granted relief he seeking, as just this court deem proper.,

defendant's has the rights to defend him self or her self under the U.S. Constitution 6th. Amendment, FARRETA V. CALIFORNIA, 442 U.S. 806 (1975);

as defendant he didn't know about if police had warrants for his arrest or for a searchs and seizures, this case law, will apply warrantless arrest in absence of exigent Circumstances Violated 4th. Amendment, UNITED STATES V. ALLEN, (2016. CA2 Vt); 813 F 3d 76.

IN GALL V. UNITED STATES, 552 U.S. 38, 49 (2007). ("as a matter of administration and to secure nationwide Consistency, the guidelines. should be the starting point and the initial benchmark") and the facts under 18 U.S.C. §3553(a). see RITA, 551 U.S. at 351 the appellate court "first ensure[s] that the district court committed no significant procedural error, GALL, 552 U.S. at 51.

CONCLUSION

WHEREAS defendant do hereby, and for all these foregoing reasons the Movant move this honorable Supreme court house to grant relief. in his pleads, as just this court deems proper.,

The petition for a writ of certiorari should be granted.

Respectfully submitted,

ALEJANDRO QUIÑONES LEYVA

Date: SEPTEMBER 30 2018

18 U.S.C. §3624(b). The legal question presented by these Certiorari. petitions is whether the phase "term imprisonment" in 18 U.S.C. §3624(b). Means "sentence impose" as petitioner argue or "time served" and a "fast-track" deportation.,

"a liberal view of papers filed by indigent and incarcerated defendant's " are listen in COPPEDGE V. UNITED STATES, 369 U.S. 438 442, N. 8 L. Ed 21 (1962);

Defendant do hereby declare under penalty of perjury that the foregoing. is true and correct to the best of his knowledge and belief pursuant to 28 U.S.C.S. §1746.,