

CASE No.

TERM October 2018

IN THE SUPREME COURT
OF THE UNITED STATES

Appeal No. 16-4749

Juan Guzman, Petitioner

Criminal No. 4:15 cr 34

v.

United States of America, Respondents

ON PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS FOR THE
FOURTH CIRCUIT (and Alternative Writ of Error)

Juan Guzman # 16561-180

Federal Correctional Institution

"La Tuna"

P.O. Box #3000

Anthony, TX 78021

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I. ——— TABLE OF AUTHORITIES ———

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TERM OCTOBER 2018

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Juan Guzman, Petitioner

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UNITED STATES OF AMERICA, Respondents

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
(and Alternative WRIT OF ERROR)

PETITION FOR WRIT
OF CERTIORARI
(and Alternative WRIT OF ERROR)

By: Juan Guzman, petitioner, in prose

#16561-180 F.C.I "La Tuna"

P.O. Box 3000

Anthony TX, 88021

"pleading errors may be corrected through the liberal
construction or amendment we are accustomed to providing
a pro se prisoner." Davis v. U.S. Sentencing Comm'n
(D.C. Cir. 2013)

II ——— QUESTIONS ———

- #1 Whether constitutional rights protect against criminal indictment with the Fatal defect of insufficiency?
- #2 Whether our Constitution of the United States or Congress protect us against arbitrary actions of government agencies?
- #3 Whether a denial of "The Bill of Particulars" is constitutionally sound in the preperation for a proper defense without effecting due process and a fair trial?

III ——— CONSTITUTIONAL PROVISIONS ———

- 1) Article III, § 2: the judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States.

— Constitutional Provisions (continued) —

2) Article IV : The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.

3) Article V : No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law.

4) — Bill Of Rights —

The Petitioner for this action, invoking and adopting the principles announced on Dec. 15, 1791, which restricts the powers and authority of the Federal Government and establishes his liberties and due process of law rights enjoyed in the United States of America.

IV — LIBERAL CONSTRUCTION OF PRO SE PETITION —

Mr. Guzman brought this action pro se, which requires the court to liberally construe his pleadings. Estelle v. Gamble, 429 U.S. 97, 106, 97 S. Ct. 285, 50 L. Ed. 2d 251 (1976); Haines v. Kerner, 404 U.S. 519, 520, 92 S. Ct. 594, 30 L. Ed. 2d 652 (1972); Loe v. Armistead, 582 F.2d 1291, 1295 (4th Cir. 1978); Gordon v. Leeke, 574 F.2d 1147, 1151 (4th Cir. 1978). Pro se pleadings are held to a less stringent standard than those drafted by attorneys. Haines, 404 U.S. at 520.

V — PRAYER —

Petitioner respectfully request the issuance of a writ of certiorari to review the judgment of the United States Court of Appeals For the Fourth Circuit filed April 6, 2018. (Unpublished)

No. 16-4749, U.S. v. Juan Guzman (4th Cir. 2018)

4:15-cr-00034-AWA-LRL-1 ... see Appendix B

VI — Basis of Federal Jurisdiction In THE — — United States District Court for the Eastern District — — of Virginia —

The District Courts subject matter jurisdiction is questionable since Mr. Guzman had never been in said region prior to being brought there under restraints by the U.S. Marshalls for this criminal case.

VII — JURISDICTION —

All Parties appear in the caption of the Case on the cover page.

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

The date on which the United States Court of Appeals decided my case was April 6, 2018.

The opinion of the United States Court of Appeals appears at Appendix # B to the petition and is unpublished per curiam.

A timely petition for rehearing was denied by the United States Court of APPEALS on the following date:

May 8, 2018

and a copy of the Order denying rehearing appears at Appendix # B.

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



PRE FACE

The touchstone of this complex criminal case deals with the violation of individual rights and the protection against arbitrary action of government, inter alia, one being rules concerning the allocation of burden of proof and the type of evidence qualifying as admissible to evoke an indictment, another is an indictment that fails to specifically allege essential elements of the charged crime, without vagueness, but sufficient to warrant an impermissible arrest without/Lacking probable cause, to include attorney abandonment.

The petitioner of this action, Juan Guzman maintains the claim of innocence in stated criminal case without the waiver of any rights.

Despite the defendants own inexperience and lack of professional legal qualifications, he has been pursuing his freedom and liberty interest to include filed multiple motions asserting various issues due to the fact that both of his court appointed attorneys, for trial and direct appeal, were ineffective in their representation. Most of these said motions were either unanswered or denied.

— Pre-Face — (Cont.)

Moreover, in Mecoy v. Louisiana, No 16-8255 (2018), the Supreme court held that a defendant has a Sixth Amendment right to decide the objective of his defense, and a violation of that right is a structural error that demands reversal.

Out the gate, Mr. Guzman was and has been denied this privilege in this criminal matter.

Difficulty exist in determining what issue (s) to present in relation to questions pertinent and subject to review in this criminal case, multiple questions arise and seek to establish but a single subject of inquiry of lacking element necessary to indict, arrest, detain, prosecute, convict and affirm the conviction of the accused, Mr. Juan Guzman. Truth be told, Mr. Guzman has been diligently, as a laymen of law, pursuing how to properly follow procedures for his defense against this unfortunate situation, with no success in being heard.

#1

IX Whether constitutional rights protect against criminal indictment with the Fatal defect of insufficiency?
see Appendix A

A) — STATEMENT OF RELEVANT FACTS —

The Petitioner in this action contends that his rights were violated and continue being violated when the United States Prosecution Attorney for the Eastern District of Virginia submitted Juan Guzman's name into this case evoking an indictment, this while lacking probable cause or personal knowledge on any involvement or overtact on the part of Juan Guzman. Furthermore, by simply using hearsay and opinated theories, and by failing to thoroughly investigate a criminal case, they have prejudiced Mr. Guzman into suffering irreparable harm.

How many people have suffered this injustice?

— Statement of Relevant Facts — (cont.)

Mr. Guzman's unfortunate predicament stems directly from a violation in the Grand Jury Clause of the Fifth and Sixth Amendments;

As a threshold matter, a cursory look at the record of this criminal case's judicial proceedings would reveal that this indictment is fatally defective.

While the indictment charged both Juan Guzman and Jose Reynoso, see Appendix A, the factual predicates of the case reveals this case revolves around Jose Reynoso, it also reveals that Mr. Guzman was included in the indictment on the basis of acts committed by those in a conspiracy of which Mr. Guzman was not a part.

The short-form indictment is fatally defective and violates Mr. Guzman's due process rights because it failed to provide sufficient notice of the charged offense to allow him to prepare a proper defense.

Furthermore, the basics for its well established rule was settled by the court in United States v. Outler, 659 F.2d at 1310; . . . (cont.)

— Statement of Relevant Facts —

(cont. 2)

... It is the Fifth Amendment guarantee with which we are concerned. Unless every element of an offense appears in the indictment, it is impossible to assure the defendant that a grand jury properly determined probable cause of the offense. We have little doubt that the grand jury in this case would have returned a true bill the appellant if the indictment has been constructed properly. Moreover, each member of the jury most likely considered the very element which is fully omitted. However, we cannot speculate. "To allow.... a subsequent guess as to what was in the minds of the grand jury at the time they returned the indictment would deprive the defendant of a basic protection which the guarantee of the intervention of a grand jury was designed to secure." Russell v. United States, 369 U.S. at 770. id. at 1310. This constitutional underpinning was affirmed again in United States v. Deisch, 20 F.3d at 145-46:

It is not enough that the grand jury concludes that the defendant should be prosecuted for violating a particular statute; rather the indictment must also allege every element of the offense. Only in this way is any assurance furnished that the grand jury found probable cause to believe that the defendant in fact committed acts constituting the offense in question. This clearly appears from the reason so often given the rules that the failure of the indictment to allege all elements of the offense may not be cured by evidence or instructions at trial....

#2

~~X~~ Whether our Constitution of the United States or Congress protect us against arbitrary actions of government agencies?

1) Comes before this Honorable court, the aggrieved party in this action to submit the above and the following for this petition and also an affidavit.

A) — STATEMENT OF FACTS —

2) THE DETENTION ORDER

While working in the central part of Texas as a truck driver for the oil fields, Mr. Guzman was detained and placed under arrest due to a "Detention Order" issued by the U.S. Marshalls, this happened on or about June 4, 2015 in the city of San Angelo TX

3) THE Interrogation/Interview

Mr. Guzman was being released from the San Angelo Jail when he was approached by an unknown DEA agent who claimed to be from the agencies office based out of San Antonio TX.

The Agent borrowed a conference room located in the jail where he proceeded to introduce various photographs of different individuals, two of which Mr. Guzman recognized, a Mr. Fred Malone and Mr. Jose Reynoso. The agent then presented a copy of a certified checks that Mr. Guzman had made through his bank, approximately five years earlier to Mr. Malone for the purchasing of a motorbike.

Once Mr. Guzman had verified to the agent that he recognized the two individuals in the photographs and that the checks were of his making, the officer/agent again rearrested Mr. Guzman and left him in Custody...

(Cont.

(cont.)(1) — Statement of Facts —

... of the San Angelo Jail under the original "Detention Order" with additional charges of Conspiracy to possess and distribute narcotics, 21 U.S.C. §§ 846 and 841(a)(1)

Mr. Guzman requested that the "DEA Agent" elaborate on the allegations and charges, the agent said that he had minimal information on the case, due to that it was under a "sealed indictment" that was issued a few months back from that day. That day being on or about June 6, 2015. (Indictment issued May 13, 2015)

4) Alleged Co-defendants,

Freddy Malone and Jose Reynoso :

Mr. Malone was a previous employer of Mr. Guzman. Mr. Malone owned a trucking company for which Mr. Guzman worked for temporarily on and off in 2007.

Mr. Guzman states that the last time that he seen Mr. Malone was around or about 2010, when Mr. Guzman purchased a motorcycle from Mr. Malone. (This statement of course being made from the date of Mr. Guzman apprehension.)

On the other hand Mr. Reynoso and Mr. Guzman, the Petitioner in this action, had known each other for many years, they traveled together for family outings and vacations many a time. Even at some point around or about the begining of 2014 worked for the oil fields as truck drivers out of Midland TX.

(cont.)(2) - Statement of Facts -

5) INITIAL APPEARANCE

On or about June 8, 2015, while still under custody, Mr. Guzman was transported to Abilene TX. This without legal representation, a Federal Judge indicated that Mr. Guzman had been indicted for Conspiracy to Possess with Intent to Distribute Marijuana and Cocaine, and that Indictment was issued earlier that year (specifically May 13, 2015 see Appendix A) to include that it was issued out of New Port News Virginia, a place or region that Mr. Guzman had never been to prior to the future proceedings from that time.

After the short-form indictment was read aloud in front of the Federal Judge, Mr. Guzman pleaded with the court to explain to him when and where it was that he had committed the purported crimes to which he was being accused. No one was able to elaborate on the case, the excuse was that it was a "sealed indictment". But, for the convenience of the courts, if he were to take a guilty plea, there that day, the Federal Courts would gladly prosecute him, and if he chose to plea Not Guilty, he would be transported to the Eastern Part (District) of Virginia to be prosecuted. Mr. Guzman pleaded "Not Guilty".

(cont.) (3) — statement of Facts —

6) Impermissably Transported, Confined and Prosecuted

As though he was some sort of fugitive, Mr. Guzman was subsequently transported across the country, from the western part of Texas to the eastern district of Virginia, and subjected to endure the hardship of this strange locality to defend himself against the powerful prosecutorial resources of the Government. Under Article III § 2, cl. 3, to be tried in the state and district where the crime is alleged to have been committed is a matter of venue, prosecution must always prove territorial jurisdiction over a crime in order to sustain a conviction. This was not so, to include Mr. Guzman never waived said rights.

7) Attorneys Special Comment

At some point prior to trial Mr. Guzman simply asked his court appointed counsel, Mr. Shawn Cline, that why haven't the government presented any evidence of why he was being held, Mr. Cline's response was, "that's the United States government, they don't have to show you anything!"

#3
XI

Whether the denial of "THE BILL OF PARTICULARS" is Constitutionally sound in the preparation for a proper defense without effecting due process and a fair trial? see Appendix C

What was the government hiding when it refused to release or provide a Bill of Particulars? Nothing, because the government had nothing pointing to the law of conspiracy based on there was no material evidence of any agreement to violate the law on Mr. Guzman's behalf, as erroneously claimed by the government.

The crux of the government's case is that Mr. Guzman along with others conspired to distribute marijuana and cocaine in the Eastern District of Virginia. Moreover, to initiate the indictment used hearsay statements by an alleged co-conspirator, Mr. Freddie Malone, whom had already pleaded guilty for his crimes long before this indictment was issued seeking a sentence reduction opportunity.

The withholding of Bill of Particulars with the specific information on the purported crime constitute legal error. see U.S. v. Bortnovsky, 830 F.2d 572 (2nd cir. 1987) and again in U.S. v. Davidoff, 845 F.2d 1151 (2nd cir. 1988) the court reversed convictions because the government failed to provide a bill of particulars that would have clarified vague charges.

XIII — Conclusion —

The Supreme Court should be favorably disposed to grant certiorari to review this extraordinary case, for it calls for the exercise of the Supreme Court's supervisory powers to instruct the lower federal court to address the relief sought where the actions taken against Mr. Guzman are found to be a violation of his constitutional rights, and alternative issue writ of Error.

XIV — RELIEF SOUGHT —

The Petitioner in this action, Juan Guzman, seeks to be heard.

Mr. Guzman seeks to be immediately released from prison, as an alternative a new trial with the privilege of an evidentiary hearing, proper legal representation and in a court with fundamental fairness.

Date: July 30, 2018

Respectfully Submitted
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