

No. 17-12680-K

#18

18-8588

IN THE

SUPREME COURT OF THE UNITED STATES

Francis O. Rossy — PETITIONER
(Your Name)

vs.

SGT. LUPKIN, et.al. — RESPONDENT(S) FILED

ON PETITION FOR A WRIT OF CERTIORARI TO JAN 09 2019

OFFICE OF THE CLERK
SUPREME COURT, U.S.

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

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

PETITION FOR WRIT OF CERTIORARI

FRANCIS O. ROSSY GDCH 1000980022

(Your Name)

JOHNSON STATE PRISON
PO BOX 344

(Address)

WRIGHTSVILLE, GA 31096

(City, State, Zip Code)

N/A

(Phone Number)

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SUPREME COURT, U.S.

QUESTIONS PRESENTED

1. WHEN A PETITIONER CHALLENGES HIS EXTRADITION, ARE THE DEFENDANTS-RESPONSIBLE FOR THE EXTRADITION TOTALLY EXEMPT FROM LIABILITY, ALTHOUGH THEY KNEW OF THE PENDING HABEAS CORPUS CHALLENGE?
2. IS THE PRISON LITIGATION REFORM ACT APPLICABLE TO A PLAINTIFF WHO CHALLENGE "PURELY PROCEDURAL VIOLATIONS", AND NOT CONDITIONS OF CONFINEMENT?
3. IS A HABEAS CORPUS PETITION CHALLENGING THE PLAINTIFF'S EXTRADITION MOOT BECAUSE PLAINTIFF WAS EXTRADITED BEFORE HIS CHANCE TO CHALLENGE HIS EXTRADITION?
4. HOW CAN PLAINTIFF'S "PURELY PROCEDURAL CONSTITUTIONAL VIOLATION" BE RECONCILED, WHEN CHALLENGING HIS EXTRADITION IS NO LONGER AVAILABLE DUE TO HIS ILLEGAL REMOVAL FROM THE ASSYLUUM STATE, VIA THE "PURELY PROCEDURAL CONSTITUTIONAL VIOLATION"?
5. PLAINTIFF'S EFFORTS TO OBTAIN A COPY OF THE ASSYLUUM STATES GOVERNOR WARRANT HAVE BEEN FUTILE, BECAUSE THE WARRANT NEVER EXISTED IN THE FIRST PLACE. HOW DOES THIS FACT MEASURE AGAINST DEFENDANTS' CONTENTION OF A CONSTITUTIONALLY LEGAL EXTRADITION?

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- PRISON LITIGATION REFORM ACT (PLRA)
- FLORIDA CRIMINAL EXTRADITION ACT
- 42 USC § 1983
- SUPREME CT RULE 13(1)
- 28 USC § 1254 (1)
- UNITED STATES CONSTITUTION 14th AMENDMENT
- SUPREME CT RULE 10(c)
- 28 USC § 1331 AND 1343(2)(3)
- UNIFORM CRIMINAL EXTRADITION ACT

LIST OF PARTIES

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:

1. ALLEN, GARY, CLINCH COUNTY GEORGIA DEPUTY SHERIFF
2. CRIBBS, MATTHEW, HAMILTON COUNTY, FLORIDA DEPUTY SHERIFF
3. EMILY LUPKIN, HAMILTON COUNTY FLORIDA SGT. DEPUTY SHERIFF
4. ARRINGTON, HELEN FLORIDA D.O.C. RELEASE COORDINATOR
5. REID J. HARRELL HAMILTON COUNTY FLORIDA SHERIFF
6. HERRING, M. FLORIDA D.O.C. SENIOR COUNSELOR

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
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ENTERED 18-6-2018

APPENDIX B - ORDER DENYING REHEARING
ENTERED 11-11-18

APPENDIX C - OPINION of U.S. DISTRICT COURT 11th DISTRICT
ORDERED 5-17-17

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FILED 1-9-2017

APPENDIX E WITNESS SUBPOENA DUCESTECUM TO SHERIFF REID

APPENDIX F

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 A 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 United States district court appears at Appendix C to the petition and is

reported at 3:14-cv-396-J-34 PDB (M.D. Fla. May 17, 2017); 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 Aug 6, 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: Oct 11, 2018, and a copy of the order denying rehearing appears at Appendix B.

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).

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).

STATEMENT OF THE CASE

COMES NOW PLAINTIFF FRANCIS O. ROSSY, PURSUANT TO SUPREME COURT RULE 13 (1), AND 28 U.S.C. § 1254 (1) AND HUMBLY ASKS THIS HONORABLE COURT TO REVIEW THE DISTRICT COURT OF APPEALS, ELEVENTH DISTRICT ORDER of OCTOBER 11th 2018 (APPX B) DENYING PLAINTIFF'S LEAVE TO PROCEED IN HIS 42 U.S.C. § 1983 CIVIL RIGHTS ACTION, THIS ORDER WAS IN AGREEMENT WITH DISTRICT COURT ORDER (APPX A AND C) PROMOTING APPLICATION OF THE PLRA.

THE DISTRICT COURT OF APPEALS HAS DECIDED AN IMPORTANT FEDERAL QUESTION IN A WAY THAT CONFLICTS WITH RELEVANT DECISIONS OF THIS COURT. SEE SUPREME CT. RULE 10(c).

JURISDICTION OF COURT OF FIRST INSTANCE IS UNDER 42 USC § 1983 TO REDRESS THE DEPRIVATION UNDER COLOR OF STATE LAW OF RIGHTS SECURED BY THE CONSTITUTION OF THE UNITED STATES, AND 28 USC SECTION 1331 and 1333 (2) (3).

THE UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF FLORIDA WAS THE APPROPRIATE VENUE UNDER 28 U.S.C. SECTION 1331 (1)(2) BECAUSE IT IS WHERE THE EVENTS GIVING RISE TO THIS CLAIM OCCURED.

THE CRUX OF THIS CASE IS ELEMENTARY. "ALMOST 100 YEARS AGO IN ROBERTS V. REILLY 116 U.S. 80 (1885) THE SUPREME COURT RECOGNIZED THAT INDIVIDUALS HAVE A FEDERAL RIGHT TO CHALLENGE THEIR EXTRADITION BY WRIT OF HABEAS CORPUS". CRUMLEY VS SNEAD 620 F2d 481; 1980 FURTHERMORE IN CRUMLEY. *id*, "THE SHERIFF OF ONE STATE DELIVERED THE PRISONER TO AUTHORITIES IN ANOTHER STATE WHILE THE PRISONERS PETITION & A WRIT OF HABEAS CORPUS

COLATELLARY CHALLENGING THE EXTRADITION WAS PENDING IN STATE COURT, *id.* at 482. RECOGNIZING THAT INDIVIDUALS HAVE A FEDERAL RIGHT TO CHALLENGE THEIR EXTRADITION BY WRIT OF HABEAS CORPUS, WE SPECIFICALLY HELD THAT 'ANY DENIAL OF THAT RIGHT GIVES RISE TO A CAUSE OF ACTION UNDER 42 USC § 1983' *id.* at 483.

IT IS SIGNIFICANT TO NOTE THAT GIVEN THE OPPORTUNITY THE FACTS WILL REVEAL THAT DEFENDANTS COMPORTMENT DURING THE ILLEGAL EXTRADITION CLEARLY DISQUALIFIED THEM TO BE "SHIELDED FROM LIABILITY FOR CIVIL DAMAGES IN SO FAR AS THEIR CONDUCT VIOLATED CLEARLY ESTABLISHED STATUTORY OR CONSTITUTIONAL RIGHTS OF WHICH A REASONABLE PERSON IN (THEIR) HIS POSITION WOULD HAVE KNOWN", HARLOW VS FITZGERALD, 457 US, at 818, 102 S. CT 2727; AN OFFICIAL CAN BE HELD RESPONSIBLE IF HE KNEW (OR SHOULD HAVE KNOWN) THAT HE OR SHE WAS ACTING ILLEGALLY. SAUCIER V. KATZ 533 US 194 (2001)

IN THE DISTRICT COURT'S OPINION (SEE APPX "C" P. 14) THE COURT DIRECTS THE READER TO WAHL VS. MCIVER 773 F2d 1169, 1173 (11thCIR 1985) (PER CURIAM) STATING THAT A PRISONERS PAST EXPOSURE TO SUB-PAR CONDITIONS IN A PRISON "DOES NOT CONSTITUTE A PRESENT CASE OR CONTROVERSY INVOLVING INJUNCTIVE RELIEF IF UNACCOMPANIED BY ANY CONTINUING, PRESENT ADVERSE EFFECTS". HOWEVER THIS CASE HAS NEVER BEEN ABOUT PRISON CONDITIONS, BUT ABOUT PROCEDURAL CONSTITUTIONAL VIOLATIONS, IN PARTICULAR THE FOURTEENTH AMENDMENT TO THE CONSTITI

TUTION OF THE UNITED STATES, PROCEDURAL VIOLATIONS.

THE DISTRICT COURT NOTES; "ROSSY'S DETENTION IN THE HAMILTON COUNTY JAIL (HCJ) AND HIS SUBSEQUENT EXTRADITION TO CLINCH COUNTY GEORGIA, WAS LAWFUL AND DID NOT VIOLATE HIS PROCEDURAL DUE PROCESS RIGHTS. ROSSY NEITHER ASSERTS THAT THE DEFENDANTS WERE AWARE OF ANY PROCEDURAL DEFECTS IN THE EXTRADITION PAPERWORK OR PROCEEDINGS; NOR THAT THEY THWARTED HIS ABILITY TO INITIATE AND LITIGATE HIS HABEAS ISSUES IN THE STATE COURTS. AND THAT "THE DEFENDANTS WERE SIMPLY PERFORMING THEIR DUTIES FOR THE PURPOSE OF ROSSY'S EXTRADITION TO GEORGIA WHERE HE WAS ULTIMATELY CONVICTED. IN DOING SO, ROSSY WAS PROVIDED THE DUE PROCESS OF LAW REQUIRED FOR EXTRADITION TO GEORGIA.

GIVEN, THE RECORD, THE DEFENDANTS NEITHER VIOLATED ROSSY'S PROCEDURAL DUE PROCESS RIGHTS UNDER THE FOURTEENTH AMENDMENT NOR FLORIDA'S UNIFORM EXTRADITION LAW". (SEE APPX "C", Pg. 23, 24)

HOWEVER, ON HIS SECOND AMENDED COMPLAINT (SAC) [THE CONTROLLING DOCUMENT] (APPX "D" Pg 6) PLAINTIFF ADAMANTLY REITERATED, "PLAINTIFF FILED A HABEAS CORPUS ON APRIL 9th 2012 CHALLENGING HIS DETENTION, PENDING EXTRADITION AND AUTHENTICITY OF THE DOCUMENTS WHICH IT WAS THIS PLAINTIFF'S HUMBLE OPINION WERE NOT IN ORDER. PLAINTIFF ALSO REQUESTED COUNSEL SO THAT HE MAY APPROPRIATELY PRESENT HIS CASE. BEFORE HE WAS ALLOWED TO PRESENT HIS CASE AND

OVER PLAINTIFFS OBJECTIONS HE WAS UNLAWFULLY REMOVED BY CLINCH COUNTY GEORGIA DEPUTY GARY ALLEN FROM HAMILTON COUNTY JAIL, WHILE SARGENT LUPKIN AND OTHER DEPUTIES WERE PRESENT. OVER PLAINTIFFS OBJECTIONS TO HAVE THESE OFFICERS RECOGNIZE HIS CONSTITUTIONAL RIGHTS HE WAS EXTRADITED WITHOUT DUE PROCESS OF LAW. (APPX "D" Pg 6) ALSO "SARGENT LUPKIN AND DEPUTY CRIBBS SPECIFICALLY KNEW OF PLAINTIFF'S HABEAS PETITION SINCE THEY PERSONALLY RECEIVED A COPY OF THE MOTION FOR FILING AND SIGNED OFF ON IT AS HAMILTON COUNTY SHERIFF REPRESENTATIVES WHEN PLAINTIFF FILED THE SAME" (APPX "D" Pg 6 CONT.)

SO THE STATEMENTS FROM THE DISTRICT COURTS OPINION FINDING NO MERIT ON PLAINTIFF'S 42 USC § 1983 CIVIL ACTION ARE LESS THAN ACCURATE. THE DAY OF THE EXTRADITION PLAINTIFF ADVISED THE OFFICERS IN FRONT OF THE VIDEO CAMERA ABOUT THEIR INMINENT VIOLATION OF CONSTITUTIONAL RIGHTS. PLAINTIFF'S EFFORTS TO PROCURE THIS VIDEO EVIDENCE WAS REPEATEDLY DENIED BY THE SHERIFF OF HAMILTON COUNTY HARRELL REID. *

IT IS THIS PLAINTIFFS PRAYER THIS HONORABLE COURT GRANT THE CERTIORARI WRIT REMANDING PLAINTIFF'S CASE AND ALLOWING HIM TO CONTINUE TO TRIAL, WHERE HE IS CONFIDENT JUSTICE WILL PREVAIL.

* SHERIFF REID WAS SERVED WITH A SUBPOENA DUCES TECUM BUT HE IGNORED PLAINTIFFS EFFORTS SAYING HE WAS NEVER SERVED. (SEE APPX E)

REASONS FOR GRANTING THE PETITION

IT IS THIS PLAINTIFFS MOST SINCERE BELIEF THAT BY GRANTING THE CERTIORARI WRIT WILL PUT TO REST AND SETTLE ONCE AND FOR ALL THIS ELUSIVE AND MISUNDERSTOOD PROCESS OF EXTRADITION. PLAINTIFFS RESEARCH HAS REVEILED MANY INSTANCES WHERE INDIVIDUALS RIGHTS HAVE BEEN VIOLATED DURING EXTRADITION YET DEFENDANTS CONTINUE TO BE EXONERATED DESPITE VIOLATIONS. AGAIN, THROUGHOUT THE DEFENDANTS ARGUMENTS ONE SPECIFIC ISSUE SEEMS TO SURFACE AMBIGUOUSLY: CONDITIONS OF CONFINEMENT. THIS CASE IS "NOT" ABOUT JAIL CONDITIONS, BUT ABOUT "PURELY PROCEDURAL VIOLATIONS BY INDIVIDUALS WHO CIRCUMVENT PROCESS AND CONTINUE TO GET AWAY WITH IT.

THIS PLAINTIFF BELIEVED THAT THE DOCUMENTS FOR HIS EXTRADITION WERENOT IN ORDER AND CHALLENGED HIS EXTRADITION. ONLY TO BE ILLEGALLY EXTRADITED WITHOUT DUE PROCESS OF LAW, BY INDIVIDUALS WHO KNEW THE RULES AND PROCESS WERE BEING VIOLATED. I HOPE THIS HONORABLE COURT PROVIDES THE MEANS TO FINALLY PUT TO REST PLAINTIFFS PURELY PROCEDURAL CONSTITUTIONAL VIOLATIONS, AND ISSUE THE WRIT.

MOST IMPORTANTLY THIS IS AN UNPRECEDENTED CASE, A CASE WHERE A UNITED STATES CITIZEN CHALLENGES HIS EXTRADITION VIA THE PROPER VEHICLE, A MOTION FOR A WRIT OF HABEAS CORPUS

BUT HIS DUE PROCESS RIGHTS ARE FLAGRANTLY VIOLATED BY THE VERY PEOPLE WHO ARE SUPPOSED TO CONSERVE AND PROTECT HIS CONSTITUTIONALLY PROTECTED RIGHTS. THE LEAST THIS CIVIL ACTION CAN BE CATEGORIZED TO BE IS FRIVOLOUS, OR IN BAD FAITH. THE PLAINTIFF HAD A CENTURY OLD RECOGNIZED RIGHT TO CHALLENGE HIS EXTRADITION, AND THAT OPPORTUNITY WAS STRIPPED AWAY ALONG WITH THE PURELY PROCEDURAL VIOLATION OF HIS CONSTITUTIONAL RIGHT TO DUE PROCESS BY THE DEFENDANTS IN THIS ACTION. THE PLAINTIFF CAN AND WILL PROVE BY THE QUANTUM OF PROOF, PREPONDERANCE OF THE EVIDENCE, THAT THESE DEFENDANTS "KNEW OR SHOULD HAVE KNOWN" THAT THEIR ACTIONS WERE IN CONTRAVENTION OF A FEDERALLY PROTECTED RIGHT, WHEN THIS PLAINTIFF IS GIVEN THE OPPORTUNITY TO PROVE HIS CASE BEFORE THE COURT, WITH DISCOVERY.

ACCORDING TO LONG VS SHILLINGER 927 F2d 525 (10th Cir 1991) "PLAINTIFF CAN HOWEVER RECOVER FOR ANY INJURY SUCH AS EMOTIONAL DISTRESS CAUSED BY THE DEPRIVATION OF DUE PROCESS ITSELF." SEE ALSO DRAPER, 792 F2d @ 921 (CONCLUDING THAT "DISMISsing PRISONERS § 1983 CLAIM BASED

ON UNLAWFUL EXTRADITION] ON THE GROUND THAT HE WAS ULTIMATELY CONVICTED OF THE CRIME INVOLVED AND THEREFORE SUFFERED NO "ACTUAL DAMAGE... IS SIMPLY INCORRECT"); WE HAVE HELD THAT "EMOTIONAL INJURY IS ACTIONABLE UNDER SECTION § 1983 FOR HUMILIATION, EMBARRASSMENT, AND MENTAL DISTRESS RESULTING FROM THE DEPRIVATION OF A CONSTITUTIONAL RIGHT." HEWETT V JARRARD, 786 F2d 1080, 1088 (11th CIR. 1986); ACCORDING LEWIS V SMITH, 855 F2d 736, 738 (11th CIR. 1988) (PER CURIAM) (FINDING THAT AWARDING MONEY TO PRISONER AS COMPENSATORY DAMAGES FOR EMOTIONAL DISTRESS RESULTING FROM PROCEDURAL DUE PROCESS VIOLATION WAS NOT CLEARLY ERRONEOUS). IN FACT, "PUNITIVE DAMAGES MAY BE AWARDED IN A § 1983 ACTION EVEN WITHOUT A SHOWING OF ACTUAL LOSS BY THE PLAINTIFF IF THE PLAINTIFF'S CONSTITUTIONAL RIGHTS HAVE BEEN VIOLATED." DIKES V. HOSEMAN, 783 F2d 1488, 1500 (11th CIR. 1984). WHILE INJURIES MUST BE SPECIFIC, "REAL INJURY CAN [EVEN] BE INFERED FROM THE FACTS." HEWETT, 786 F2d at 1088. AN OFFICIAL CAN BE HELD RESPONSIBLE IF HE KNEW (OR SHOULD HAVE KNOWN) THAT HE OR SHE WAS ACTING ILLEGALLY. SAUCIER V. KATZ 533 US 194 (2001), SEE ALSO HARLOW V FITZGERALD 457 US 800 (1982).

FINALLY THIS HONORABLE COURT MUST CONCLUDE THAT A PURELY PROCEDURAL CONSTITUTIONAL VIOLATION

HAS DEFINITELY OCCURED, AND THE ONLY REMAINING ISSUE TO BE TESTED IS WHETHER THE DEFENDANTS OF THIS ACTION KNEN (OR SHOULD HAVE KNOWN) THAT WHAT THEY WERE DOING WAS ILLEGAL. THIS MUST BE DECIDED BY A JURY DURING TRIAL, AFTER THIS PLAINTIFF HAS AN OPPORTUNITY TO INTERVIEW / CROSS EXAMINE DEFENDANTS AND OBTAIN DISCOVERY. IN CLOSING PLAINTIFF HUMBLY ASKS THIS HONORABLE COURT TO ISSUE THE WRIT OF CERTIO- RARI AND REVERSE THE DISTRICT COURT OF APPEALS ORDER DECLARING THIS PLAINTIFF'S CIVIL ACTION FRIVOLOUS AND NOT TAKEN IN GOOD FAITH.

MOST RESPECTFULLY

Francis O. Rossy
FRANCIS O. ROSSY

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Francis O. Rosy

Date: 1-9-2019

(9)