18-9111 ORIGINAL

No. _____

_____

IN THE

SUPREME COURT OF THE UNITED STATES

_____

El-Sayyid Nosair
_____ — PETITIONER
(Your Name)

vs.

UNITED STATES OF AMERICA, — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS SECOND CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

El-Sayyid Nosair--Pro se # 35074-054
(Your Name)

U.S. Penitentiary Allenwood
(Address)

P.O. Box 3000
(City, State, Zip Code)

White Deer, PA 17887-3000
(Phone Number)

THE PETITIONER'S IMPORTANT PRO SE QUESTIONS

1. WHETHER THE DENIAL OF EQUAL JUSTICE BY LOWER COURTS IS STILL WITHIN THE PROHIBITION OF THE CONSTITUTION AS THIS COURT HELD IN YICK WO v. HOPKINS IN 1886, AND WHETHER THIS COURT HAS MORAL AND LEGAL OBLIGATIONS TO INTERFER WHEN THE LOWER COURTS HOUSES DOORS WERE UNJUSTLY CLOSED FOR THE MUSLIM AND ARAB PRISONERS, SUCH AS THIS PRO SE PETITIONER, WHO SOME OF THEM WERE WRONGFULLY CONVICTED OF TERRORISM CHARGES OR RECEIVED MUCH MORE SEVERE PUNISHMENTS THAN NON_MUSLIM PRISONERS OR UNJUSTLY RECEIVED ADDITIONAL PUNISHMENTS FOR THE CHARGES IN WHICH THE JURY FOUND THEM NOT GUILTY OF, AS THE CASE WITH THIS PRO SE MUSLIM PETITIONER, IN VIOLATION OF THE WELL-ESTABLISHED CASE LAW OF THIS COURT INCLUDING BLAKELY v. WASHINGTON, AND WHEN THE LOWER COURTS UNJUSTLY DEPRIVED THIS MUSLIM AND AN ARAB PETITIONER OF ALL MEANS WHICH ARE AVAILABLE TO OTHERS FOR HIS CASE TO BE HEARD AND DEFIED THIS COURT RULINGS APPLIES TO HIM WITHOUT PROVIDING HIM WITH THE REASONS WHY SUCH RULINGS ARE BEING APPLIED BY SAME COURTS TO OTHERS BUT NOT HIM, INCLUDING THIS COURT RULINGS ON:

   BLAKELY v. WASHINGTON, 542 U.S. 296, 303 (2004)("THE MAXIMUM SENTENCE A JUDGE MAY IMPOSE SOLELY ON THE BASIS OF THE FACTS REFLECTED IN THE JURY VERDICT OR ADMITTED BY THE DEFENDANT");
   APPRENDI v. NEW JERSEY, 530 U.S. 466, 494 (2000)("ANY FACT THAT EXPOSES THE DEFENDANT TO A GREATER PUNISHMENT THAN THAT AUTHORIZED BY JURY'S GUILTY VERDICT IS AN ELEMENT THAT MUST BE SUBMITTED TO A JURY");
   HURST v. FLORIDA, 193 L.Ed.2d 504 (2015)("THE SIXTH AMENDMENT PROVIDE THAT IN ALL CRIMINAL PROSECUTION, THE ACCUSED SHALL ENJOY THE RIGHT TO SPEEDY AND PUBLIC TRIAL BY AN IMPARTIAL JURY. THIS RIGHT, IN CONJUNCTION WITH THE DUE PROCESS CLAUSE REQUIRES THAT EACH ELEMENT OF CRIME BE PROVED TO A JURY BEYOND A REASONABLE DOUBT");
   UNITED STATES v. O'BRIEN, 560 U.S. 218 (2010)("JUDGE-FOUND SENTENCING FACTOR, CANNOT INCREASE THE MAXIMUM SENTENCE A DEFENDANT MIGHT OTHERWISE RECEIVE BASED PURELY ON THE FACT FOUND BY JURY");AND
   ALLEYNE v. UNITED STATES, 133 S.Ct. 2151,2163 (2013)(COURTS CANNOT IMPOSE A SENTENCE BASED ON FACTS THAT INCREASE THE PERMISSIBLE PUNISHMENT UNLESS SUCH FACTS HAVE BEEN ADMITTED OR FOUND BY THE JURY").

2. WHETHER THE FIRST AND FIFTH AMENDMENTS TO THE U.S. CONSTITUTION AND THE SOUND JUDICIAL PRACTICE IMPOSES MORAL AND LEGAL OBLIGATIONS ON LOWER COURTS TO PROVIDE PRO SE LITIGANTS, SUCH AS THE PETITIONER, REASONED DECISIONS FOR DENYING THEM RELIEF TO HELP THEM WITH THEIR EFFORTS TO PROPERLY CHALLENGE THEIR CONVICTIONS AND SENTENCE, INSTEAD OF ISSUING SUMMARY DENIAL

ORDERS THAT PROVIDES NO LEGAL OR FACTUAL ANALYSIS TO AT LEAST GIVE AN ASSURANCE TO THE PRO SE LITIGANT THAT THE LOWER COURTS CAREFULLY REVIEWED HIS PRO SE PLEADINGS AND UNDERSTOOD HIS PRO SE ARGUMENTS AND APPLIED THE APPLICABLE STATUTES OR SUPREME COURT DECISIONS TO HIS CLAIMS FOR RELIEF AND TO ENABLE HIM TO UNDERSTAND WHY THE LOWER COURT DENIED HIM RELIEF AND WHAT NEXT HE NEEDS TO DO TO CHALLENGE HIS WRONGFUL CONVICTION OR SENTENCE ESPECIALLY WHEN LOWER COURTS PROVIDES REASONED DECISIONS FOR DISMISSING PRO SE CIVIL LAWSUITS FILED BY PRISONERS WHICH ARE MUCH MORE LESS IMPORTANT THAN PRO SE MOTIONS THAT SEEKING RELIEF FROM WRONGFUL CONVICTION OR SENTENCE. THIS COURT REPEATEDLY EMPHAZED THE IMPORTANCE OF REASONED DECISIONS:

CHAVES-MEZA v. UNITED STATES, 201 L.Ed.2d 359 (2018) ("JUDICIAL DECISIONS ARE REASONED DECISIONS. CONFIDENCE IN A JUDGE'S USE OF REASON UNDERLIES THE PUBLIC'S TRUST IN JUDICIAL INSTITUTION. A PUBLIC'STATEMENT OF THOSE REASONS HELPS THE PUBLIC WITH THE ASSURANCE THAT CREATES TRUST");

RITA v. UNITED STATES, 551 U.S. 338 (2007) ("THE RECORDS SHOWED THAT THE SENTENCING JUDGE LISTENED TO EACH ARGUMENT ... CONSIDERED SUPPORTING EVIDENCE ... WAS FULLY AWARE OF DEFENDANT'S VARIOUS PHYSICAL AILMENTS").

3. WHETHER THE SUPREME COURT HAS MORAL AND CONSTITUTIONAL OBLIGATION TO PROTECT THE MUSLIM PRISONERS, WHO WERE WRONGFULLY CONVICTED OF TERRORISM CRIMES OR WERE SINGLED OUT FOR MORE SEVERE PUNISHMENTS THAN OTHERS WHO WERE CONVICTED OF SIMILAR CRIMES, FROM LOWER COURTS THAT UNJUSTLY BLOCKING THEIR RIGHT TO EQUAL PROTECTION OF THE LAW AND DEPRIVED THEM OF ALL AVAILABLE REMEDIES FOR THEIR CASES TO BE HEARD, BY ALLOW THEM THE RIGHT TO SEEK REVIEW OF THEIR WRONGFUL CONVICTIONS AND SENTENCES FROM A DIFFERENT DISTRICT COURT AND DIFFERENT COURT OF APPEALS OTHER THAN THEIR DISTRICT AND APPEALS COURTS WHICH CONSTANTLY BLOCKED THEM OF MEANINGFUL REVIEW OF THEIR CASES OR ACCESS TO THE COURT BY CONTINUOUSLY REFUSING TO APPLY THE LAWS TO THEM OR ADDRESS THEIR LEGAL ARGUMENTS, AS THE CASE OF THIS PRO SE MUSLIM PETITIONER, WHO REPEATEDLY AND UNJUSTLY DEPRIVED OF LEGAL REMEDIES AVAILABLE TO OTHERS BECAUSE HE IS A MUSLIM PRISONER WHO WAS CONVICTED OF TERRORISM CASE, AND WAS PUNISHED FOR CHARGES THAT THE JURY FOUND HIM NOT GUILTY , AND DESPITE ALL OF THAT EVERY TIME HE ATTEMPTED TO HAVE HIS CASE HEARD BY LOWER COURTS USING LEGAL REMEDIES APPLICABLE TO HIS CASE AND ARE BEING AFFORDED AND USED SUCCESSFULLY BY OTHER PRISONERS, THE LOWER COURTS REPEATEDLY REFUSED TO HEAR HIS CASE OR ADDRESS HIS ARGUMENTS. THE SUPREME COURT REPEATEDLY PROTECTED THE RIGHTS OF MINORITIES OF EQUAL PROTECTION OF THE LAW:

YICK WO v. HOPKINS, 118 U.S. 356, 374 (1886)("THOUGH THE LAW ITSELF BE FAIR ON ITS FACE AND IMPARTIAL IN APPEARANCE YET,

IF IT'S APPLIED AND ADMINISTERED BY PUBLIC AUTHORITY WITH AN EVIL EYE AND UNEQUAL HAND, SO PRACTICALLY TO MAKE UNJUST AND ILLEGAL DISCRIMINATIONS BETWEEN PERSONS IN SIMILAR CIRCUMSTANCES MATERIAL TO THEIRRIGHTS, THE DENIAL OF EQUAL JUSTICE IS STILL WITHIN THE PROHIBITION OF CONSTITUTION");

MAEBURY v. MADISON, 2 L. Ed. 60 (1803)("THE VERY ESSENCE OF CIVIL LIBERTY CERTAINLY CONSISTS IN RIGHT OF EVERY INDIVIDUAL TO CLAIM THE PROTECTION OF THE LAWS ... THE GOVERNMENT OF THE UNITED STATES HAS BEEN EMPHATICALLY TERMED A GOVERNMENT OF LAWS, AND NOT OF MEN. IT WILL CERTAINLY CEASE TO DESERVE THIS HIGH APPELLATION IF THE LAWS FURNISH NO REMEDY FOR VIOLATION OF A VESTED LEGAL RIGHT");

BELL v. HOOD, 327 U.S. 678, 684 (1946) ("FEDERAL COURTS MAY USE ANY AVAILABLE REMEDY TO MAKE GOOD THE WRONG DONE");

MITCHUM v. FOSTER, 407 U.S. 255, 241 (1972)(COMMENTS OF REP. PERRY)"SHERIFFS, HAVING EYES TO SEE, SEE NOT, JUDGES, HAVING EARS TO HEAR, HEAR NOT ... ALL APPARATUS AND MACHINERY OF CIVIL GOVERNMENT, ALL THE PROCESS OF JUSTICE, SKULK A WAY AS IF GOVERNMENT AND JUSTICE WERE CRIMES AND FEARED DETECTION. AMONG THE MOST DANGEROUS THINGS AN INJURED PARTY CAN DO IS APPEAL TO JUSTICE").

4. The Court of Appeal's Decision Was Contrary To Procedural Law Authorized By Congress As Well As The Supreme Court Due To Unusual Circumstances That Are Subject To The Extraordinary Writ

5. The Sentence Reform Act of 1984 ("SRA") and The United States Sentencing Guidelines ("USSG") Violated The "Separation of Powers" Doctrine By Applying The USSG § 1B1.1(H)'s Offense of Conviction and "Relevant" Conduct Which Redefined The "Offense of Conviction"--

    a. That is, Where The defendant Was Found "Not Guilty" By The Jury On Count Five, But Punished For Its "Relevant" Conduct At Sentencing.

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:

Table of Authorities Cited

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28 United States Code:

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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

[X] 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,
[X] is unpublished.

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

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] 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 November 27, 2018.

[ ] No petition for rehearing was timely filed in my case.

[X] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: January 30, 2019, and a copy of the order denying rehearing appears at Appendix C.

[ ] 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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Constitution:

Fifth Amendment--"Nor be deprived of life, liberty or property, without due process of law[.]"

Statutory:

28 U.S.C. § 1651(a)--"(a) The Supreme Court and all Courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law."

STATEMENT OF THE CASE

I. Introduction -- During Trial

The Petitioner in this case was convicted in the Southern District of New York of inter alia, sedition conspiracy, and he was acquitted of Count 5, conspiracy to bomb The World Trade Center ("WTC") and several New York landmarks. Petitioner also was convicted of racketeering acts that stem from a State case where he was found "not guilty" on these same charges and seditious conspiracy in part only related to that State case. Petitioner's conviction was affirmed on direct appeal.

However, Petitioner was sentenced and the trial Court used Count Five, the acquittal of the conspiracy to bomb as "relevant" conduct. See United States Sentencing Guidelines ("USSG") § 1B1.1(H)(1) -- Offense of conviction redefined to include "relevant" conduct. See exhibits 1-2 A-B, judgment in a criminal case--Case No. S5 93 (Cr. 181 (MBM) (13) and excerpts of appeal.

In October 2000, Andrew G. Patel ("Patel") was appointed to represent Nosair in conection with his 28 U.S.C. § 2255 motion. In March 2002, Ronald Garnett ("Garnet") was appointed to represent Nosair in connection with his 28 U.S.C. § 2255 motion. This case has remained stagnant for approximately ten years, the Court's docket sheets established that neither attorney took any action in relation to Nosair's 28 U.S.C. § 2255 motion and also failed to investigat[e] case facts and discover exculpatory evidence favorable to Nosair. See exhibits 3-6.

The Petitioner complained to the Court of this inaction, and the Court appointed new counsel in response in 2010, based on the

Petitioner's contentions that the government committed prosecutorial misconduct and violated his due process by failing to reveal its connections to major witness in the case, thus warranting that his conviction be set aside. See Exhibit #6.

Collateral Judicial Review

Petitioner then sought to advance the habeas proceeding on his own. He filed a § 2241 petition in the district in which he was incarcerated. After obtaining rulings denying that petition on the grounds that it should have been filed in the sentencing court. Petitioner first filed under Rule 60(b), Fed.R.Civ.P., in the Sentencing District Court. Then on the instruction of the court's clerk--filed a document styled as a motion under 28 U.S.C. § 2255.

The salient claim in that filing was that a recently-published book had revealed that prosecutors had hidden a key defense witness from Petitioner's trial counsel. Petitioner also filed another complaint to the Court about the inactivity of his appointed habeas attorney. The magistrate judge appointed new counsel to assist in the proceedings and ordered a hearing. See exhibits 3-6.

The government released documents in response to Petitioner's filing supporting the contentions of the book cited therein, i.e., that prosecutors had concealed their knowledge of the whereabouts of, and contained with, a key defense witness. Also, appointed habeas trial counsel obtained declarations from Petitioner's trial defense attorneys to the effect that the absence of this witness had a material effect on their ability to show that Petitioner had not

involved in a seditious conspiracy. The magistrate judge scheduled an evidentiary hearing to investigate the claim:

* A week before the hearing date, the Government filed a motion to the district judge requesting to cancel that hearing date and to rule on the Government's response to my main "Newly Discovered" evidence motion, claiming that it is untimely;
* The lawyer timely objected (that the Government was out of time for filing that request.)
* The district judge put a hold on the hearing date until he answers the government.
* Approximately after 3 months, the Magistrate Judge withdrew himself from the case without reason.

Prior to the scheduled hearing, the district court judge intervened and dismissed the § 2255 motion. The judge found that the motion was untimely under §2255(f)(4), governing the time for filing based on "newly discovered evidence." The judge also found that Petitioner was not entitled to equitable tolling because defective filings, such as his § 2241 and § 2255 petitions filed in the wrong courts, do not toll the AEDPA's statute of limitations. Finally, the judge found that certain claims raised in the § 2255 motion were meritless; he did not, however, pass on the merits of the suppressed witness claim.

The district judge denied my main motion, claiming that my 2255 is untimely and that there was overwhelming evidence of my guilt ignoring the fact that the jury during the 9 months trial found me "NOT GUILTY" to the conspiracy to bomb charge, and ingnoring the newly discovered evidence.

Petitioner with the help of a "jailhouse lawyer," filed a motion for reconsideration arguing, inter alia, that equitable tolling was appropriate due to extraordinary circumstances per Holland v. Florida, 560 U.S. 631, 649 (2011). 1/ The court denied the motion without specifically addressing that argument. To wit:

* I filed a timely motion for reconsideration;
* The Court assigned the Chief Judge of the District Court on the case. She denied my request and a COA;
* I filed a petition on the issue to the 2nd Circuit Court;
* They denied it (on the eleventh day of February 2013);
* I filed a writ of certiorari, it was denied September 4, 2013.

Petitioner Sought An Order Under
28 U.S.C. § 1651(a)--Extraordinary Writ

In August 2018, I filed a petition to the 2nd Circuit under 1651 Extra Ordinary Circumstances.

1/ In the next day from the judge's Order date on denying main motion, he resigned from the Court job going to private legal practice; a new judge was assigned to the case. Petitioner's trial judge having retired.

In November 2018, the Second Circuit "denied my petition stating that the issues I am raising should have been filed under 2255(h)--dispite the fact that it was not a second or successive motion on the merits. However, 2255(h) is regarded to a second or successive motion, i.e., on the merits. The ruling was denied as being 'untimely."

The instance petition for writ of certiorari follows:

Reasons For Granting The Writ

"Congress, [has authorized] a federal court may avail itself of all auxiliary writs as aids in the performance of its duties, when the use of such historic aids is calculated in its sound judgment to achieve the ends of justice entrusted to it." United States v. N.Y. Tel. Co., 434 U.S. 159, 173 (1977)(citing Adams v. United States ex Rel. McCann, 317 U.S. 269, 273 (1942)).

Under the All Writs Act, the authority of the [Appellate] Court "is not confined to the issuance of writs in aid of a jurisdiction already acquired by appeal but extends to those cases which are within its appellate jurisdiction although no appeal has been perfected." Roche v. Evaporated Milk Ass'n, 319 U.S. 21, 25 (1943).

The All Writs Act is a "legislatively approved source of procedural instruments designed to achieve 'the rational ends of law.'" United States v. N.Y. Tel. Co., supra 172 (quoting Harris v. Nelson, 394 U.S. 286, 299 (1969)). It permits federal courts to fill gaps in their judicial power where those gaps thwart the otherwise proper exercise of their jurisdiction. PA

Bureau of Corr. v. U.S. Marshals Serv., 474 U.S. 34, 41 (1985).

A. Unusual Circumstances Occurred After The Judgment

The Books--"Triple Cross" by Peter Lance (William Morrow 2006) and "Ghost Wars" by Steve Coll (Penguin 2004) and from a copy to the "Plea" Court transcript, which were "dated" after Petitioner was sentenced. The AUSA Attorney did not provide to the defense any information about that witness's "Plea" Court Transcript. The integrity of AUSA McCarthy was beyond the bounds of the representive of the people. The Supreme Court in Berger v. United States explained the duties of the United States Attorney--"The United Stated Attorney is the representative not of an ordinary party of controversy but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done.

Unusual circumstances that justify abandonment of the law of the case "include (1) substantial new evidence introduced after the first review that is inconsistent with decision of that review, and (3) a conviction on the part of the second reviewing court that the decision of the first was clearly erroneous." Chi. & N.W. Transp. Co. v. United States, 574 F.2d 926, 930 (7th Cir. 1978).

The first and second items in the above list are the unusual circumstances that occurred in Petitioner's instant case. First, "substantial new evidence "from two books written after Petitioner's direct review; and, second, Nelson v. Colorado, 137 S.Ct. 1249 (2017)(acquitted conduct/not guilty conduct restores

the "presumption of innocence" at "sentencing.").

This Court in Hibbs v. Winns, 542 U.S. 88, 99 (2004)(Held: "The statute takes priority over the 'procedural rules adopted [by] the Court for the orderly transaction of its business. "citing Schacht v. United States, 398 U.S. 58, (1970). When court-created rules fail to anticipate unusual circumstances that fit securely within a federal statute's compass the statute controls over our decision." See also, Adam, supra at 273: "Procedural instruments are means for achieving the rational ends of law. A circuit court of appeals is not limited to issuing a writ of [ ] only when it finds that it is "necessary" in the sense that the court could not otherwise physically discharge its appellate duties."

b. Petitioner Sought An Order

Petitioner sought an order from the Court of appeals to ensure that his rights were not canceled by the procedures used to vindicate them. "[T]he courts of the United States have had powers of an auxillary nature 'to issue all writs not specifically provided for by statute, which may be necessary for the exercise of their respective jurisdictions, and agreeable to the usages and principles of law." Adam, supra 272-73.

c. The Circuit Court's Decision Was "Contrary To [Procedural] Law" And is "a Legal Question" Of A "Clear And Indisputable Right

The "clear and indisputable" right to the adjudication of [his] claims in the District Court. See Holland v. Florida, 560 U.S. 631, 649 (2010). See also, Boumediene v. Bush, 553 U.S. 723, at 779 (2007)(of signal importance, it is "uncontroversial

... that the privilege of habeas corpus entiltes the prisoner to a meaningful opportunity to demonstrate that he is being held pursuant to 'the erroneous applicationor interpretation' of relevant law."

The instant case presents a circumstance in which "a United States court of appeals has decided an important question of federal law...in a way that conflicts with relevant decisions of this Court." Rule 10(c) of the Supreme Court of the United States. To wit, the court below, in holding that the circumstances Petitioner faced were not so extraordinary as to warrant equitable tolling, flew directly in the face of this Court's decision in Holland. That case held that attorney misconduct of the sort faced by Petitioner was grounds for tolling § 2255's statute of limitations. The court of appeals' holding to the contrary risks undermining Holland and demonstrates that a writ of certiorari should be granted in this case to shore up Holland's teaching and clarify its contours.

For this reason, a grant of certiorari would have a national impact. Prisoners are dependant on their attorneys to meet the strict, unforgiving habeas deadlines, and they rely upon those attorneys to provide accurate information about those deadlines and other procedural hurdles. Holland went far in establishing that fundamental fairness militates against punishing prisoners

when their attorney lie to them about deadlines or fail to act or communicate with their clients. Granting certiorari in this case would show the lower courts how Holland is to be applied and ensure that its holding is not diluted or downplayed. So, the question below, was the Magistrate Judge's Order within the rules governing § 2255. Or, instead, the district court's Order? In short, it would further the interest of administrating justice for the juridical judge.

No matter what the judge said, it is precedent from the Supreme Court and the Circuit Court that dictates which [claims] meet § 2255(f)(4) definitions. See River v. Roadway Express, Inc., 511 U.S. 298, 312-13 (1994)("It is this Court's responsibility to say what a statute means, and once the Court has spoken, it is the duty of other courts to respect that understanding of the governing rule of law. A judicial construction of a statute is an authoritative Statement of what the statute meant before as well as after the decision of the case giving rise to that construction.").

Holland is the governing rule of law and an Order should be issued in accordance with the "surrogate" 28 U.S.C. § 2255(b) of § 2243--habeas corpus, for a "hearing." Cf. Harris, 394 U.S. 298-99 (1969),

Conclusion

A writ of certiorari should be issued.

Dated: April 24, 2019

Respectfully submitted,

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