

NO: 18-9490

IN THE SUPREME COURT OF THE UNITED STATES

Daniel Brown,  
Petitioner

v.

United States of America,  
Respondent

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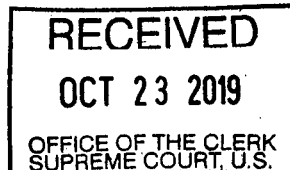
ON PETITION FOR A WRIT OF CERTIORARI TO  
THE UNITED STATES COURT OF APPEALS FOR  
THE THIRD CIRCUIT

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PETITION FOR REHEARING

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Daniel Brown  
Reg No: 54090-066  
Moshannon Valley Correctional Center  
555 Geo Drive  
Philipsburg, PA 16866



## PETITION FOR REHEARING

Appellant present its petition for a rehearing of the above-entitled cause, and in support of it, respectfully shows:

### Grounds For Rehearing

A rehearing of the decision in this matter is in the interest of justice because:

- (1) There are intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented.
- (2) The Third Circuit Court of Appeals did not address a substantial question in the petitioner brief, neither did not consider the appellant issues raised in appellant's reply brief nor his reply brief in total after the government invoke the guilty plea waiver and the waiver becomes an issues as it should have address appellant's substantial question and consider his reply brief as required by this court's precedent,
- (3) The issues were whether the Sixth Amendment rights were violated where due process requires an alien to collateral attack of the predicate deportation where permitted in cases of illegal re-entry, and counsel was not verse in the civil immigration laws to develop an argument as due process requires, nor admitted to the bar of attorneys as a civil immigration attorney and the district court denied appellant competent counsel to provide defense that form the basis for the charge.

(4) Member of the bar where services are performed is generally a factor to be considered in determining whether counsel was acting in legal capacity. Counsel operates outside the licensure affected the privilege guarantee by the Sixth Amendment where the prior deportation that forms the basis for the illegal re-entry charge is total civil laws and counsel is only a criminal attorney and the district court denied the appellant to proceed pro se.

(5) On October 7, 2019 this Court decided to affirm the lower court's decision and the crucial issue had not been address by the lower court. Petitioner was not granted an opportunity by the Court to determined, whether federal district courts should permit defendants in an illegal re-entry prosecution to appoint competent counsel to collateral attack the prior deportation proceeding established by this Court in United States v. Medoza-Lopez, 481 U.S. 828 (1987).

(6) This case contains several crucial factual and procedural distinction from all other criminal prosecution in the United States of America, whether States or Federal offenses, and warrant this court determination because:

(a) Defendants who are charged with illegal re-entry are not being represented by attorneys who are verse in the civil immigrartion laws to collateral attack the underlying deportation order that form the basis of the charges as due process requires for the alien's defense under Mendoza- Lopez.

This case is not frivolous and have substantial merits because all other criminal federal defendants, excepted for those whom are charged with illegal re-entry are appointed attorneys that are verse in the criminal laws for the criminal offense that they are charged. They are also permitted to enjoy the Sixth Amendment gurantee by choosing an attorney of their choice that is verse in the laws that form the basis of their offense who are license to practice criminal laws in their respective jurisdiction. The petitioner here was denied to proceed pro se more than once while the court permit hybrid representation and the government made objection to the district court's hybrid representation. The petitioner did not agree to the hybrid representation and did not received due process under the Criminal Justice Act (CJA) to prosecute his case.

(b) The substantial grounds not previously presented that the Equal Protection Clause of the Fourteen Amendment declares that no States shall deny to any person within its jurisdiction the equal protection of the law. Illegal re-entry defendants are not permitted to appoint civil immigration counsel that are verse in the immigration laws to collateral attack the predicate deportation as in this petitioner's case. This do not essentially treated all criminal defendants alike where immigration attorneys are not permitted to ~~represent~~ defendants in district court during illegal re-entry prosecution because; illegal

Re-entry prosecution are classified as criminal offense, while the most competent counsel to represent these defendants are immigration attorneys that are verse in the immigration laws; The district court do not appoint immigration attorneys because they are classified as civil attorneys and the Sixth Amendment Rights are gurantee to only criminal defendant and requires criminal attorneys. The pridicate deportation which is the subject to collateral attack is a civil proceeding and criminal attorneys not verse in the immigration laws which is a specialty of its own cannot take on a task to even review the record to decide whether there are meritious reasons for a collateral attack of the predicate deportation. Defendant like the petitioner here are not permitted to choose an immigration counsel of their choice to argued the predicate deportation because those counsels are classified as civil attorneys and civil attorneys are not permitted to represent defendants in a criminal proceeding.

This violates the U.S. Const. Amend. XIV, § 1 Equal Protection Clause and the Sixth Amendment Gurantee because unlike other criminal defendants, illegal re-entry defendants are not permitted to choose a civil attorney who are verse in the laws that form the basis of their charges, that is the underlying deportation order. The petitioner here was not gurantee the Sixth Amendment and the district court not permitted civil attorneys to represent defendant violated the Fourteenth Amendment Equal

Protection Clause. The petitioner rights to self-representation under the Sixth Amendment were also violated when the district court denied him to proceed pro se and permit hybrid representation. The petitioner did not waived rights to self-represenattion but the Third Circuit ruled that the petitioner waived self-representation by pleading guilty, when in fact the record indicate that the petitioner was given a choice to choose between pleading guilty and going to trial with a counsel who he did not want for his representation which would be a unconstitutional trial.

A rehearing is tightly and squarely should focus between Mendoza-Lopez, 481 U.S. 828 (1987) on the collateral attack for civil attorneys and whether these distinctions merit a different rule of law in criminal proceeding for illegal re-entry that attaches criminal penalty than regular civil cases with non-criminal penalties. It is a matter of fundamental fairness to petitioner and would not unduly burden the court.

#### Conclusion

For reason just stated, Daniel Brown urges that this petition for a rehearing be granted, and, that on further consideration, the petition be construe liberally and less stringent from those drafted by attorneys, the petition for certiorari be granted or the judgment of the lower court be reversed or as appropriate.

Dated: October 9, 2019

Respectfully submitted: Daniel Brown

Petitioner(a party unrepresented by counsel: Daniel Brown)