

No. 18-9800

IN THE SUPREME COURT OF THE UNITED STATES

BARTON ADAMS,

Petitioner

v.

UNITED STATES OF AMERICA

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

PETITION FOR REHEARING

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PETITION FOR REHEARING

Pursuant to Rule 44 of this Court, Barton Adams hereby respectfully petitions for rehearing of the Court's decision issued on October 7, 2019. Barton Adams v. United States, No. 18-9800, before a full nine-Member Court, because of newly discovered evidence recently obtained from the High Court in Hong Kong.

An extension of time was granted to file the Petition for Rehearing extending the time to and including November 16, 2019.

The petitioner plead guilty to one count of healthcare fraud for a single unidentified claim, that was processed and returned unpaid. In return, the district court in West Virginia basically ordered the criminal forfeiture of every penny earned by Dr. Adams during the last 55 years.

REASONS FOR GRANTING THE PETITION

The newly discovered evidence from the High Court in Hong Kong, is a copy of the NDWV October 22, 2012, sealed protective-restraining order, that identifies and locates specific property subject to forfeiture on October 22, 2012, long before the Rule 11(c)(1)(C) sentencing on March 1, 2013. The district court in West Virginia refuses to unseal, the October 22, 2012 order, DE 1110. The new evidence is a copy of the sealed West Virginia October 22, 2012 order. [App A-High Court in Hong Kong cover sheet for exhibit; and Sealed App A- cover sheet, plus sealed October 22, 2012 order.]

The main issue in this petition is very simple, and comes down to the date the specific property -39 demand drafts, was identified, located and subject to an existing order of forfeiture.

ANSWER: October 22, 2012.

The new evidence from the High Court in Hong Kong proves:

(1) All post March 1, 2013 sentencing, forfeiture orders, for specific property - 39 demand drafts, should be considered void ab initio, simply because the 39 demand drafts were located, identified and subject to forfeiture in an existing order of forfeiture on October 22, 2012, but the specific property -39 demand drafts were not included in the:

- January 14, 2013, “Preliminary Order of Forfeiture”; nor the
- February 14, 2013, “Amended Preliminary Order of Forfeiture”.

The February 14, 2013, “Amended Preliminary Order of Forfeiture”, became final as to the defendant at the March 1, 2013 binding Rule 11 (c)(1)(C) sentencing, and does not include specific property – 39 demand drafts, and that is the law of the case.

(2) Rule 32.2(e)(1)(A) has a mandatory requirement that directs the district court, not to amend a forfeiture order to include a specific property subject to forfeiture under an existing order of forfeiture unless the specific property was located and identified after that order was entered.

Since the October 22, 2012 order identifies, and locates specific property -39 demand drafts on October 22, 2012, the district court did not have the authority to amend the forfeiture order that became final as to the petitioner at his binding Rule 11(c)(1)(C) March 1, 2013 sentence. The following forfeiture orders for specific property – 39 demand drafts issued after March 1, 2013 are illegal.

- (i) July 11, 2013, “Second Amended Preliminary Order of Forfeiture”;
- (ii) June 25, 2014, “Final Order of Forfeiture with Respect to Specific Personal Property”; and the
- (iii) September 18, 2018, “Amended Final Order of Forfeiture”.

3) In addition, the binding plea agreement was breached:

- (a) The binding Rule 11 (c)(1)(C) plea agreement does not include specific property -39 demand drafts. The district court’s forfeiture orders for specific property -39 demand drafts, issued after the binding sentencing, breaches the plea agreement, because the binding plea agreement did not include, specific property -39 demand drafts, located, identified and subject to forfeiture in an existing order of forfeiture on October 22, 2012.

Conclusion

The Writ of Certiorari should be granted. The petitioner should be allowed to withdraw his plea. The post-sentencing forfeiture orders, including the latest illegal forfeiture order issued on September 18, 2018 are void *Ab initio*.

The manifest injustice is clear.

DATED: November 11, 2019

Respectfully submitted,



Dr. BARTON ADAMS, pro se

Appendix

IN THE HIGH COURT OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
COURT OF FIRST INSTANCE
MISCELLANEOUS PROCEEDINGS NO. 589 OF 2013

IN THE MATTER OF THE
MUTUAL LEGAL ASSISTANCE IN
CRIMINAL MATTERS ORDINANCE CAP. 525
[Section 27 and Schedule 2, Section 7]

AND

IN THE MATTER OF

Barton Joseph Adams	1 st Defendant
Josephine Artillaga Adams	2 nd Defendant
Keyfield Limited	3 rd Defendant

Exhibit "HYW-2" of Affirmation of HUI Yee-wai

This is the exhibit marked "HYW-2" referred to in the Affirmation of HUI Yee-wai affirmed this 21st day of March 2013.

<u>Exhibit No.</u>	<u>Description</u>	<u>No. of pages</u>
"HYW-2"	Copy US Order dated 22 October 2012 made by the United States District Court for the Northern District of West Virginia	3

Before me,

Wong Lai Ying
Commissioner for Oaths

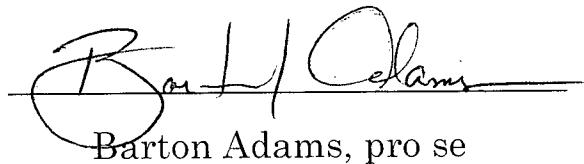
Judiciary

A

CERTIFICATE OF COUNSEL – Pro Se

I hereby certify that the ground for this petition are limited to intervening circumstances of substantial or controlling effect or to other substantial grounds not previously presented. This petition for rehearing is presented in good faith and not for delay.

Dated: November 11, 2019



Barton Adams, pro se

**Additional material
from this filing is
available in the
Clerk's Office.**