

19-5390

ORIGINAL

IN THE SUPREME COURT OF THE UNITED STATES  
1 FIRST STREET N.E. WASHINGTON D.C. 20543

Francisco Narváez  
Movant,

Honorable U.S. Magistrate  
Susan E. Cox  
U.S. District Judge,  
John J. Tharp Jr.  
[10-cr-00759-2]  
Northern District of IL.

Supreme Court, U.S.  
FILED

JUL 16 2019

OFFICE OF THE CLERK

-versus-

UNITED STATES OF AMERICA  
Respondent,

RECEIVED

JUL 29 2019

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

A PETITION FOR WRIT OF MANDAMUS UNDER 28 U.S.C. §1651(a)

And for the record, the undersigned Movant, do hereby being duly deposes sworn and affirms that under penalty of perjury as to be true, and also acting, ("quilibet potest renunciare jure pro-se introducto"). States as follows;

Therefore, I moves this Honorable U.S. Supreme Courthouse to take a cosideration of my pleads.

Wherefore, To obtain a mandamus relief:

A petitioner must show that, (1) It has not other adequate means to obtain relieve desires. Wherefore, the (delayed) on District Court to deside the outcome of my motion (§2255) Habeas Corpus. (2) The writ is appropriate under the circumstances. Because the sentence term it's almost done, and none of both courts has been ruled over the case. Court of appeals says it waiting for District Court decision, so the time has been span without any decision on both Courts.

(3) The right to issuance of the writ is very clear. Quite Lack of Government and Police protocol and also to follow the rules of due process of Law; when this case had been commenced, when the Grand Jury was indict me, looms a prosecutorial misconduct, misconduct in office, misconduct of attorney, so that led to a prosecutorial misconduct.

Dated: July 24. 2019

Very Truly-Yours

BY:

Francisco Narváez  
francisco narváez-bey: U.C.C. §1-201(40)  
All Unaleinable Rights Reserved,  
Moshannon Valley Correction Center  
555. 1 Geo Drive Philipsburg Pa. 16866

one of one

State of Pennsylvania )  
 ) ss.  
County of Clearfield )

AFFIDAVIT OF MERITS

I, Francisco Narváez, do hereby state and Affirmation in all my Capacity, that the following as to be true under penalty of Perjury.

I, declare upon all my knowledge, this foregoing attached to this affidavit is true and accurate, Therefore, my declaration it is over the lack of due-process of law; as has been stated in these documents attached to this affidavit. Then, the errors had been commenced when I was indicted, or charged by the grand jury (8) months before the incident, also with unsigned "instrument charge" and also unsigned arrast warrant, so as these issues had been started, it continuing all the way to the end.

And my earnings wages are \$228.96 Cents per year, but I've an assessment fees of \$8.34 Cents each month, so my income yearly it is \$100.08 cents, Hygiene and commissary are very expensive then my family it's unable to deposite me any mony, so this year a few friends had deposited me some mony at this point I've arround \$349.00 dollars, but I plan to by shoes and clothing. Then that it's the reason of my plead to grant me the forma pauperis.

Further The Affidavit Sayeth Not:

41. Title 28-Under Pollock v. Pollock (6th, Cir., Ky Sep, 01, (1998). 154 F Ed. 601 1998; see also, Carter v. Clark, 612 F .2d 228 (5th, Cir., 1980); FED App, 0271P (FRCP-56), motion for sammary judgement, Statutory Exception Exists (28 U.S.C.S. §1746) Which allows unsworn declaration to be substantive for conventional, AFFIDAVIT: I, do hereby declare (verify certify or state) under penalty of perjury that the foregoing is true and accurate to the best of my knowledge and belief pursuant to 28 U.S.C.S. §1746. i.e.,

Dated: July 24. 2019.

Very Respectfully Submitted  
BY: Francisco Narvaez  
francisco.narvaez@bey U.C.C. §1-201(40)  
All Unalienable Rights Reserved,  
Moshannon Valley Correction Center  
555. 1 Geo Drive Philipsburg Pa. 16866

19-5390 ORIGINAL  
No. 18-3379

[10-cr-00759-2]

IN THE  
SUPREME COURT OF THE UNITED STATES  
OFFICE OF THE CLERK

Supreme Court, U.S.  
FILED  
JUL 16 2019  
OFFICE OF THE CLERK

Francisco Narváez — PETITIONER  
(Your Name)

vs.

UNITED STATES OF AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. Dist. Court/ 7th Court of Appeals Dist. of IL. Chgo,  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Francisco Narváez  
(Your Name)

(MVCC) 555. Geo Drive Philipsburg Pa. 16866  
(Address)

Philipsburg Pa. 16866  
(City, State, Zip Code)

N/A  
(Phone Number)

## QUESTION(S) PRESENTED

Therefore, my concerns or questions it's plenty, first of all I am a poor man without schooled in any Laws, then I even had much school in Spanish nor in English, so i've been learned a little bit meanwhile I have been incarcerated. Whereby, I'll say I had more than ten Attorneys for my defense but not one of them had been performed in my behalf. so I've been a victim of misrepresentation, of all these Lawyres I had. Pure and clear lack of adequate performance. see e.g.,

18 U.S.C. §3006A-Adequate Representation of Defendants:  
see also, Model Rules of Professional Conduct 1.4(b) the Lawyres Should be;

Then, all these counsels I had, each of them failed to performed on my behalf, any motion to suppress the evidence, lack of speedy trial, so I had any diligence or any knowledge of these procedure so I've learned a little bit meanwhile I've been imprisonment.

Thus, the most important matter is herein, so that means the loyalty to this Honorable U.S. Constitution. see,

Guarrantly by The Sixth Amendment:

Due-Process by the Federal Government. U.S. Const, Amend V (".... No Person Shall be.....Deprive of life, liberty, or Property, without Due-Process of the Law.....") nemo est supra leges.

see also, The Preamble of the Constitution, has never been regarded, a source of any substantive Power conferred on Government of United States, or any of its Departments. Jackson v. Massachusetts, (1905) 197 US 11, 49 L. Ed 643 25 S. Ct. 358. i.e.,

So the clear and pure errors in this case it's not one or two I'll say this case is ("fraught with and teem of errors no gap").

## LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cover page.

[X] 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:

United States District Court For the Northern District of Illinois, 219 South Dearborn Street, Chicago Illinois 60604.

Seventh Circuit Court of Appeals, for the Northern District of Illinois, 219 South Dearborn Street, Chicago, Illinois 60604.

1- The full name of every party or amicus the attorneys represent in the case: Francisco Narváez,

2- The names of all law firms whose partners or associates have appeared for a party in the district court or are expected to appear for the party in the case: Law Offices of Hannah V. Garst; Law Offices of David E. Beely; Law Office of Pablo De'castro; Thomas G. Cosgrove; Robert L. Rascia & Himel, Ltd.

Deer, Stone & Maya PC. Jeff W. Deer; Dan Hesler Attorney at Law; Law Offices of Shannon Max Lynch Attorney at Law; Keri a Ambrosio attorney at Law; 3- said party is not a Corporation:

So I cannot recall the others names of others attorneys I had then when I was in trial, wife's of trial counsel who had been performed in the trial his wife, was in trial as well she's an attorney as well, and for the Robert Rascia Firm, from there it was came like may two more lawyers, as I say may be ten or more than ten counsels had been performed in this case.

So now this Movant respectful Acting, ("quilibet potest renunciare, jure pro se introducto") see, The Federal Bill of Rights: in general, these amendments prohibit Congress for making any Law respecting or prohibiring the Free Exercised of an established religion, Abridgment of freedom of "speech" or "press" or the right to people to assembly peaceably and, to petiiton the Government, for a redress of Grievances.

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APPENDIX B	The opinion or decision of Courts it will be attached in each set of copies.....
APPENDIX C	Courts both District and Circuit Court of appeals..... District court has Jurisdiction Pursuant to 18 U.S.C §3231. Court of Appeals has Jurisdiction 28 U.S.C. 1291
APPENDIX D	21 U.S.C. §§846 and 841(a)(1) and 21 U.S.C. §843(b) and 18 U.S.C. §2.....
APPENDIX E	On August 2009 A Special Grand Jury had been Charged me with all sixth counts of the <u>instrument charge</u> ..... so that it must be charged by an indictment instead....
APPENDIX F	see e.g., Guarranty by Sixth Amendment: Due-Process by the Federal Government. U.S. Const. V ("No person Shall be.....Deprived of life, liberty, or property, without Due-Process of the Law....") <u>nemo est supra leges.</u> This had lack of due process of law, I'll say in all stages of the case, since this case had been commenced Because I was indicted lets say arround eight months before the incident. As you deem and judge.

## TABLE OF AUTHORITIES CITED

### CASES

### PAGE NUMBER

18 U.S.C. §3006A-Adequate Representation of Defendants:  
 see also, Model Rules of Professional Conduct Rule 1.4(b) The  
 Lawyers Should Be; see, CHAPTER 35. UNITED STATES ATTORNEYS  
 §544 OATH OF OFFICE: Title [28 U.S.C.S. §543] see also  
 OATH OF OFFICE (16c) and CLAUSE 3. OATH OF OFFICE: Act of 1980  
 (28 U.S.C. §§332(d)(1), 351-363); see also CANON 1. 2. and 3;  
 and 18 U.S.C. §241 see also 18 U.S.C. §§241-247-42 U.S.C.S. §§  
 1985-1986 Act, of 1871. ¶¶13.02.13.04, 13.03. 13.09; (Civil Righ-  
 ts, Act of 1986). 42 U.S.C.S. §1981). ¶¶5.01.-5.03, 508. 5.19;  
 Miranda, 384 U.S. at 492, see also Dickerson v. United States,  
 530 U.S. 428, 444 (2000) Miranda, 384 U.S. at 444, J.D.B. v.  
North Carolina, 564 U.S. 261, 269 (2011). Wiborg v. U.S.(1896)  
 163 US 632, see also Clyatt v. U.S. (1905), 197 US 207,

### STATUTES AND RULES

18 U.S.C. §2.....  
 18 U.S.C. §3231.....  
 18 U.S.C. §3553.....  
 18 U.S.C. §3742.....  
 21 U.S.C. §841.....  
 21 U.S.C. §843.....  
 21 U.S.C. §846.....  
 28 U.S.C. §1291.....  
 Rule 10-14 (Petition for writ of Certiorari)  
 Rule 29 (Filing and service on opposing patry or Counsel)  
 Rules 33.2 and 34 (Preparting pleadings on 8½ x 11 inch paper)  
 Rule 39 (Proceeding in forma pauperis).

### OTHER

Fed. R. Crim., P 29.....  
 U.S.S.G. §2D1.1.....  
 U.S.S.G. §3C1.1.....  
 U.S.S.G. §4A1.1.....  
 U.S.S.G., Ch 5, pt, A.....

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 \_\_\_\_\_ to the petition and is

☒ reported at Therefore, both it's set on copies; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished. Cause of (delayed) on decision of the case.

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

☒ reported at I'll attached on each copy; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished. delay on decision.

☐ 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 date and month/year it's in the copies, attached.

[ ] 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: Both appeals were, and a copy of the order denying rehearing appears at Appendix N/A.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including N/A (date) on \_\_\_\_\_ (date) in Application No. A.

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

Whereby, I pled you to take the jurisdiction over this case and reviewing the plain and clear errors it were in this case, since this case had been commenced, with Unsigned instrument charge, and I truly believe that not evidence was.

[ ] 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

Defendant's has the Right to defend him self or her self under the U.S. to the Constitution. Faretta v. California, 422 U.S. 806 (1975);

Miranda, 384 U.S. at 492, see also Dickerson v. United States, 530 U.S. 428, 444 (2000). (Holding that Miranda, warnings are Constitutionally required). The Court held that unless the suspect, is warned of his Fifth Amendnmet rights any pretrial statements, elicited from the suspect are inadmissible at trial, Miranda 384 U.S. at 444, see also J.D.B. v. North Carolina, 564 U.S. 261, 269 (2011). (Substance of Miranda, Warnings must be given prior questining); Thus, herein in this case police never warned me any thing of those rights, not at all. None (nil).

282. Errors Affecting Constitutional Issues or Substantial Rights  
If A Plain error is committed in matter so absolutely ("Vital") of Defendant's Supreme Court is at liberty to correct it. Wiborg v. United States, (1896). 163 US 632, 41 L.Ed 289. 16 S. Ct. 1127, see also Clyatt v. United States, (1905). 197 US 207, 49 L. Ed .25 S. Ct. 429, infra dignita'tem cu'riae.

Therefore, I indeed pled at this Honorable U.S. Supreme Court to grant me the review over these issues it were in this case, so the errors in this case, isn't one or two on my knowledgement and believed and my guess. This case is ("fraught with and teem of errors") As soon you justices reviewing this case, attorneys failed to performed on my behalf. As I told you, I say that I' perhaps had more than (10) counsels whose had been performed in this case. I had any diligence over these proceeds, as I stated before in this foregoing, I even had School not Spanish nor English, I've been learned a bit, meanwhile I've been Jailed.

see, UNIVERSAL DECLARATION OF HUMAN RIGHTS:  
ADOPTED AND PROCLAIMED BY THE GENERAL ASSEMBLY ON THE RESOLUTION.  
217 (III) December 10th, 1948.

(Artical 28) All persons have the right to establish a social and international order where the right and liberties proclaimed in this Declaration are in total Effect;

(Article 11). every person accused of a crime has the right to be presumed innocent Whilst their guilt is proven in conformance with public Law; in Which".....All Guarranties....." required for a Defnese have been Assured. infra dignita'tem cu'riae.

see, The preamble of the Constitution, has never been regarded a source of any substantive power conferred on Government of the United States, or any of its departments. Jacobson v. Massachusetts, (1905) 197 US 11, 49 L. Ed 643, 25 S. Ct. 358. i.e.,

So,I will state a few errors because if I state all the issus it will take me to use a lot of pages I can say 40/50 pages to state all the issuss it will take to be almost a 500 copies, to state all. see (Bill of indictment (16c) An instrument presented to a Grand Jury and used by the Grand Jury to declare Whetehr there is enough evidence to formally charge the accused with a crime. see indictnment; No Bill True Bill: But in this case I was charg-ed, with an".....Instrument charge....."

see, §607.04 Elements of "....Valid...." indictment or information: [1] Signature required: see, Fed. R. Crim., P. 6(c)-7(c) [iii], So this instrument charge I've has not any signature from none not for the foreperso neither fro the attorney for the Government, nor for any Judge or Magistrate, none nil no one.

see also, ¶7.05, Search Warrant:

[1] Search Warrant Is Order "....Signed by Magistrate...."

A search Warrant is an order, Signed by impartial Magistrate, see Second Circuit: United States v. Hunter, 13 F. Supp, 2d 574 (D. Vt. 1998). see, ¶7.06[2] Supreme Court: Johnson v. United States, 333 U.S. 10, 13-14 68 S.Ct. 367. 92 L. Ed 436 (1948); Fed. R. Crim., Peocedure: see Fed. R. Crim. P. 41

Thus, I've two (2) arrest warrants and none one of them has any Signature from any Magistrate or judge so whose had been Authorized those arrests against me herein is the main question.

## STATEMENT OF THE CASE

Under Seal

No:10-cr-00759: The SPECIAL AUGUST-1 GRAND JURY charge:

Begining no later than February 2010 and continuing to on about June 9, 2010, at Chicago, in the Northern District of Illinois, Easter Division, and eleswhere,

### COUNT ONE

RAFAEL MONTANO, a/k/a/ "Rafa," and  
francisco narvaez, a/k/a/ "Paco,"

defendants herein, did conspire with each other and with others known and unknown to the Grand Jury, to knowingly and intentionally, possess with the intent to distribute and to distribute a controlled substance, namely, 500 Grams or more of mixtures and substances containing a detectable amount of cocaine, a Schedule II Narcotic Drug Controlled Substance, in violation of Title 21, United States Code, Section 841(a)(1); In violation of Title 21, United States Code, Section 846.

### COUNT TWO

The SPECIAL AUGUST 2009-1 GRAND JURY further charges:

On or about March 9, 2010, at approximately 11:05 a.m. (call session 365). in the Northern District of Illinois, Easter Division, and elsewhere, the same guys named above.

defendants herein, knowingly and intentionally used a communications, facility, namely, a telephone, in committing and in causing, and facilitating the commission of a felony violation of Title 21, United States Code, Section 846, namely, conspiracy to possess with intent to distribute and to distribute a controlled substances, as charged in count One of this Indictment:

But...? Now herein is the big one, I had charged of all (6) counts, by the Special Grand Jury, but that it was happened as the documents says like (8) months or so before the incident was....?

Now What...? I wasn't Charged by an indictment, "unsigned instrument, charge" from none, what this means, a wrongful conviction. and I say as the case had been commenced it continuing alike to the End. as you deem and judge, as I said I can fill 40/50 pages to state all these issues.

## REASONS FOR GRANTING THE PETITION

First of all, the issues in this case, isn't one or two on my knowledgement, and my believe and my guess, this case is ("fraught, with and teem of plain and clear errors not doubt")

see, Guarrantly by the Sixth Amendment:

Due-Process by the Federal Government. U.S. Const. Amend. V ("No person Shall be.....Deprive of life, libetry, or Porperty, without Due-Process of the Law.....") nemo est supra leges.

Therefore, on my knowledge and what these documents says I was indicted for the August Special Grand Jury Eight months before the crime was, and charged of all (6) counts in the said indictment, but this document is not an indictment, this is an "....Unsigned intrument charge...." as the case commenced as all the way to the End.

Unsigned warrant arrests by the Magistrate, as the rules says, Is an Order by the rule of Law; that arraest warrant must be Signed by impartial Magistrate. So errors in this case are Abhorrent and egregiuos on each stage of this case.

First counsel did not warned me about any thing of these proceeds, I've been learned on my own step by step meanwhile I been incarcerated, Not one of these attorneys I had filed any motion on my behalf, although I had told some of them when I was started to got a little knowledgement of thses procedures, but by the way they did not file any motion on my behalf. Very unfair Trial Trial counsel did not raised my paper work in trial, instead he took with him my paper work and never gave me back.

Lack of speedy trial, lack of warrantless to wiretap and survielance, and lack of court orders thereof. Either to the third party doctrine, to get the disclosure of phone recods without court order as well, I had been requested for all those police Affidavits, to know if they did it in a good faith all these matters. Excessive bail in violation of the 8th, amendment to the U.S. Constitution.

see this case falls in the Jurisprudence of this case.

see e.g., 17-832 Stern v. United States, Ruling Below,  
(4th, Cir., 693 F. App'X 196, 2017 BL. 243609);

Thereby, giving rise to a series of Structural Constitutional,  
Violations requiring this court to assume Authority over the case  
and ".....Order reversal of the Wrongful Conviction.....?" (2)

did the District Court materially "err" when it disregarded the  
Ruling in Stern v. United States, 543 U.S. 1097, 125 S. Ct. 988,  
160 L. Ed. 996 (2005); (6) Is the Supreme Court Willing to

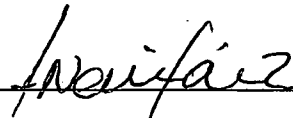
"fulfill" its contract with the American People and they  
individual, "OATH OF OFFICE" and protect the "common man" and  
Fully Exercise Supervisory Authority over the Inferior Courts..?

Thus, I respectfully Pled at the Justices of this U.S. Supreme  
Court house, to deem and Judge this Matter.

**CONCLUSION**

The petition for a writ of certiorari should be granted.

And for all these foregoing reasons stated in this document I  
Respectful pled at this Honorable U.S. court house, review this  
case. Respectfully submitted,

BY: 

Date: July 24. 2019