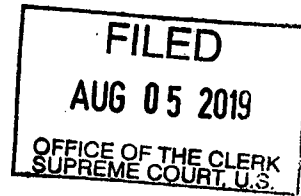


19-5556 ORIGINAL
No.

LEWIS V. UNITED STATES OF AMERICA



IN THE SUPREME COURT OF THE UNITED STATES

REGINA LEWIS -PETITIONER

Vs.

UNITED STATES OF AMERICA - RESPONDENT(S)

ON PETITION FOR WRIT OF CERTIORARI TO

U.S. COURT OF APPEALS FOR THE SECOND CIRCUIT

PETITION OF REWRIT OF CERTIORARI

REGINA LEWIS
21 KENNEY CT.
NEWBURGH NY 12550

845 591-2557

QUESTIONS PRESENTED FO REVIEW

Did United States Magistrate Gabriel Gorenstein violate the Fed. R. Civ. P. Rule 4 (b)

Did my arrest and prosecution violate the narrow federal-state balance

Does the (Rule of lenity narrow principle apply to 8 U.S.C.115 (a) (1) (b)

Did I commit a Federal Crime punishable under Title 18 U.S.C. § 115 (a) (1)(B)

LIST OF PARTIES

A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Regina Lewis- Plaintiff

United States of America

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TABLE OF AUTHOITIES CITED

CASES

Lockhart v. United States, 577 U.S. 2016

State v. Thonesavanh 904 N.W.2d 432 (Minn.2017)

Common wealth vs. Timothy O. Dayton 477 Mass.224

Bond v. United States (No. 09-1227) 581 F. 3d 128, Bond v. United States Certiorari to the United States Court of Appeals for the Third Circuit No. 12–158. Argued November 5, 2013—Decided June 2, 2014

United States v. Bass, 404 U.S. 336 (1971)

United States v. Fenton, 10 F. Supp. 2d 501 (W.D. Pa. 1998).

Muscarello v. United States, U.S. 118 S. Ct. 1911, 1919, 141 L. Ed. 2d 111, (U.S.1998).

United States v. Wells, 519 U.S. 482, 499, 117 S. Ct. 921, 137 L. Ed. 2d 107 (1997)

Staples v. United States, 511 U.S. 600, 619 n. 17, 114 S. Ct. 1793, 128 L. Ed. 2d 608 (1994)

United States v. Granderson, 511 U.S. 39, 54, 114 S. Ct. 1259, 127 L. Ed. 2d 611 (1994)

Chapman v. United States, 500 U.S. 453, 463-64, 111 S. Ct. 1919, 114 L. Ed. 2d 524 (1991)

Hughey v. United States, 495 U.S. 411, 422, 110 S. Ct. 1979, 109 L. Ed. 2d 408 (1990)

Crandon v. United States, 494 U.S. 152, 158, 168, 110 S. Ct. 997, 108 L. Ed. 2d 132 (1990)

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that writ of certiorari issue to review the judgment below.

OPINIONS BELOW

The order of the United States District Court Appendix A

Warrant for Arrest signed by U.S. Magistrate Gorenstein W. Gabriel Appendix B

Federal Bureau of prisons In-Transit Data Form Appendix C

Federal Bureau of Prisons Incident Report Appendix D

CONSTITUTIONAL AND STAUTORY PROVISIONS INVOLVED

The rule of lenity (also called the rule of strict construction) is a principle of criminal statutory interpretation that requires a court to apply any unclear or ambiguous law in the manner most favorable to the defendant. Lockhart v. United States, 577 U.S. 2016, State v. Thonesavanh 904 N.W.2d 432 (Minn.2017), Common wealth vs. Timothy O. Dayton 477 Mass.224. Lenity purports to support two important constitutional objectives. First, it serves to preserve the separation of governmental powers. As applied, lenity limits the scope of statutory language in penal statutes, because the legislator and not the courts ought to establish the contours of a crime and its punishment. Lenity then serves to protect the legislature's constitutional lawmaking prerogative and to limit the courts' encroachment on legislative function. My arrest by the U.S. Marshal Service was not authorized by an act of Congress.

STATEMENT OF THE CASE

On July 26, 2012, I was arrested by the United States Marshal Service for violation of Title 18 U.S.C. § 115 (a) (1) (B). My arrest and prosecution was not privileged and violated the narrow federal state balance. See United States v. Bass, 404 U.S. 336 (1971). I was held in federal custody in violation of the Constitution or laws or treaties of the United States, United States v. Fenton, 10 F. Supp. 2d 501 (W.D. Pa. 1998). My federal arrest and subsequent conviction establishes a "grievous ambiguity or uncertainty in the statute [,]" which has to be resolved in my favor under the rule of lenity. Muscarello v. United States, ___ U.S. ___, ___, 118 S. Ct. 1911, 1919, 141 L. Ed. 2d 111, ___ (U.S. 1998). (Rule of lenity is a narrow principle to be applied "only if, after seizing everything from which aid can be derived, we can make no more than a guess as to what Congress intended." (quoting United States v. Wells, 519 U.S. 482, 499, 117 S. Ct. 921, 137 L. Ed. 2d 107 (1997); see Staples v. United States, 511 U.S. 600, 619 n. 17, 114 S. Ct. 1793, 128 L. Ed. 2d 608 (1994); United States v. Granderson, 511 U.S. 39, 54, 114 S. Ct. 1259, 127 L. Ed. 2d 611 (1994). The court must apply the rule of lenity and resolve the ambiguity in [defendant's] favor."); Chapman v. United States, 500 U.S. 453, 463-64, 111 S. Ct. 1919, 114 L. Ed. 2d 524 (1991); Hughey v. United States, 495 U.S. 411, 422, 110 S. Ct. 1799, 109 L. Ed. 2d 408 (1990); Crandon v. United States, 494 U.S. 152, 158, 168, 110 S. Ct. 997, 108 L. Ed. 2d 132 (1990). Notes of Committee On The Judiciary, House Report No. 94-247; 1975 Amendment. A. Amendments Proposed by the Supreme Court. Rule 4 of the Federal Rules of Civil Procedures when a criminal complaint has been filed. Rule 4 (b). The Committee recast the language of Rule 4(b). No change in substance was intended. The phrase "valid reason" was changed to "good cause," a phrase with which lawyers are more familiar. [Rule 4, both as proposed by the Supreme Court and changed by the Committee, does not in any way authorize a magistrate to issue a summons or a warrant sua sponte, nor does it enlarge, limit or change in any way the law governing warrantless arrest.] United States Magistrate Gabriel W. Gorenstein issued an arrest Warrant Sua sponte and his issuance was not authorized by an act of Congress.

REASONS FOR GRANTING THE WRIT

Notes of Committee On The Judiciary, House Report No. 94-247; 1975 Amendment. A. Amendments Proposed by the Supreme Court. Rule 4 of the Federal Rules of Civil Procedure when a criminal complaint has been filed. Rule 4 (b). The Committee recast the language of Rule 4(b). No change in substance was intended. The phrase "valid reason" was changed to "good cause," a phrase with which lawyers are more familiar. [Rule 4, both as proposed by the Supreme Court and changed by the Committee, does not in any way authorize a magistrate to issue a summons or a warrant sua sponte, nor does it enlarge, limit or change in any way the law governing warrantless arrest.] Appendix B, C, D. A United States Court has decided an important federal question in a way that has so far departed from the accepted and usual course of judicial proceedings, as to call for an exercise of this Court's supervisory power. The case is of such public importance as to justify deviation from normal appellate practice and to require immediate determination in this court. See 28 U.S.C. § 2101(e).

CONCLUSION

The petition for writ of certiorari should be granted based on statutory language in the Notes of Committee On The Judiciary, House Report No. 94-247;1975 Amendment. A. Amendments Propose by the Supreme Court. Rule 4 of the Federal Rules of Civil Procedures when a criminal complaint has been filed. Rule 4 (b) and the rule of lenity (also called the rule of strict construction) is a principle of criminal statutory interpretation that requires a court to apply any unclear or ambiguous law in the manner most favorable to the defendant.

Respectfully submitted,



Regina Lewis
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Newburgh NY 12550

July 26, 2019