

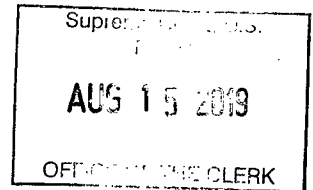
19-6084
No. _____

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

US11- #18-11127 Eleventh Cir.



Jair Mendoza Montoya # 69362-018

— PETITIONER

(Your Name)

vs.

United States of America

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Eleventh Circuit Court of APPEAL's/ ATLANTA, GA.

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Jair Mendoza Montoya; Defendant

(Your Name)

F.C.I. Williamsburg, BOX No: 3 4 0

(Address)

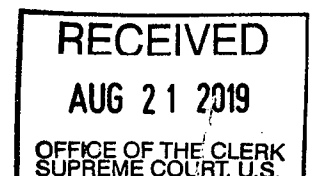
Salters, South Carolina, 25950-0340

(City, State, Zip Code)

REGISTER No: 69362 - 018

(~~69362~~ Number)

[(1.)]



QUESTION(S) PRESENTED

(1.)-

Was the criminal jurisdiction of the United States based upon territorial principle, and unlawfully conferred to the U.S.A. by implication given to extraterritorial effect. Both the District Court & Appeals Court[s] err in opining that the VESSEL Petitioner was seized from, was not subject to the jurisdiction of the U.S.A., and because criminal jurisdiction of the U.S.A. is wholly statutory & without standing in another sovereignty, as in Nicaragua Central America international water jurisdiction?

(2.)-

The VESSEL @ Sea Petitioner was aboard, in the Court[s] error, was subject to the jurisdiction of Nicaraguan International Code[s], and therefore not the jurisdiction of the United States of American Statutory law[s], including Title 46 § 70503(a) OR § 70506(a), exceeding the powers of Congress under the Federal Constitution @ Art. I. Section 8, & Clause 10. hereafter then causing Montoya's judgment & sentence invalid?

(3.)-

Because the subject VESSEL was not from the registry of the U.S.A., nor any of the territories therefrom, the Congress was without POWER, to kidnap Montoya from an international vessel, to thereafter be punished by Maritime Drug Law[s], as that enforcement ACT was unconstitutional in the Nicaraguan Waters?

(4.)-

The U.S. District Court, as well the U.S.A. Court of APPEAL's for the Eleventh Circuit, both knew, or should have known there cannot be jurisdiction to hold Maritime Drug Law Enforcement Act, of Title 46 U.S.C.A., but refused to allow Counselor Victor Daniel Martinez, argue for an acquittal, when Petitioner explained the vessel was in international Waters?

LIST OF PARTIES

[] 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:

U.S.A. Attorney, M.D.FLa. = Taylor G. Stout
Suite # 3200 of 400 N. Tampa Street
~~XXXXXXXXXXXXXXXXXXXX~~ *
Tampa, Florida, 33602
(813) - 274-6039

U.S. District Judge, HONORABLE Susan C. Bucklew
Middle District Of Florida, P.O.B. # 3905
Tampa, Florida, 33601 - 3905

U.S. Court of APPEALS, For The ELEVENTH Circuits
Tuttle Court of APPEAL Building, N. W.
5 6 Forsyth Street Courthouse
Atlanta, Georgia, 3 0 3 0 3

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TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
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Flores VS. United States; 289 U.S. 137 (1933)-----	
Hurtado V. United States; 2012 U.S. App. LEXIS 22845 (11Th)-----	
Wynne VS. United States; 217 U.S. 234 (1910)-----	
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STATUTES AND RULES

F.R.CR. Procedure
U.S. Sentencing Guidelines 1B1.10(b)(1)
Amendment 782 Guides
Title 18 § 272 x § 451 U.S.C.A.
Title 18 § 3553 U.S.C.A.
Title 18 § 3582 U.S.C.A.Section (c)
Connstitution of U.S.A. Federal Art. III. § 2
Fair Sentencing Act. of 2010
First Step Act of 2018

OTHER

LAW of NATIONS / U.S. Constitution Art. I. § 8, Cl. 10.

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 " B " to the petition and is

☒ reported at 2019 U.S. App. LEXIS 14609; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

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

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
☒ is unpublished, But Included with PETITION.

[] 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.

1.

[(5 b.)]

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was May 17th. 2019. #US11 - 18-11127.

☒ 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: _____, 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 60days 10-21-2019 (date) on August 22, 2019 (date) in Application No. 18 A 11127, Montoya V. U.S.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

Defendant Montoya, went to Jury Trial in the U.S. District Court for the Middle District of Florida @ Tampa, Florida for conspiracy to possess & distribute five or more kilograms of cocaine drugs. The Defendant appealed this conviction on the two count[s] on grounds that the Maritime Drug Law Enforcement Act, Title 46 U.S.C.A. §§ 70503(a), & § 70506, as applied, exceeded the powers of CONGRESS, however his Counsel Bjorn E. Brunvand, failed to articulate the jurisdictional facts, and ineffectively argued frivolous issues that had absolutely no merit[s]. (I.) -That evidence was insufficient, and (II.)- Obstruction of Justice level did not apply, and finally (III.)- that the 360 Month sentence was too harsh & un-reasonable! This appeal **FAILED!**

However the correct issue was JURISDICTION, and Congress exceeded it's powers by the Federal Constitution @ Art. I. § 8, cl. 10, and Petitioners present conviction must be reversed, for lack of jurisdiction. The Power of Congress to define & punish conduct under the offences clause was limited by customary international LAW! The U.S.A. supreme Courts holding is precedent, and the structure of the Federal Constitution confirmed that the power to "define", was limited by the law of nations & the phrase offences against the law of nations" was understood in recent time, to mean violations of customary international law. The high Court also determined that drug trafficking was not a violation customary international law @ the founding, and drug trafficking was not a violation of customary international law today. Because this offense charged this Petitioner, was not a violation of customary international law, the COURT has exceeded it's power the Congress cannot issue.

This Case is ripe for review by the Supreme Court !

STATEMENT of the CASE

The Defendant Montoya, went to Jury trial in the District Court for the United states, at Tampa Florida, and subsequently was found guilty and sentenced to 360 Months Federal Confinement. The conviction involved two counts that charged possession & distribution of 5 kilograms or more of cocaine substance, wherein the counsel for defense, Victor Danial Martinez, of Tampa Florida, did not argue the jurisdictional facts of this case, and chose a poor strategy that caused the Defendants to be convicted, where the District Court did not ever have jurisdiction over the Maritime matter in international waters outside the County of Nicaragua, and falsely suggested by all Court[s], it was outside Jamaica, which is a bald face lie! The ships records, and chart planning at land, both contradicted these errored findings by both Tampa District Court, and the Eleventh Circuit Court of appeals in Atlanta Georgia.

By the Government using the Maritime Drug Law Enforcement Act's, it was violating the Constitution for the United states, citing Art. 1, § 8. cl. 10, by the U.S.A. Using Title 46 § 70503(a) and § 70506, U.S.C.A. for this illegal prosecution and conviction.....

The Congress's Power does not exist in international waters, especially outside Nicaraguan waterways, where the ship, the FAT COW, was at over 50 miles from the Nicaraguan shores, and flying NO flag of any nation, therefore was a sovereign where it was anchored @ sea! Because drug trafficking is not a violation of customary international LAW's, there can be no Federal United States offense[s] which could be violated, and the Courts in this case were without jurisdiction to proceed in the prosecution of Montoya's charges!

It is here & now factually presented to this Honorable Court, as the 360 Month sentence applied to Defendant Montoya, the Maritime Drug Law Enforcement Act was unconstitutionally applied causing a FALSE CONVICTION. The Supreme Court must now

must herein reverse on the grounds the Court[s] had no JURISDICTION, period! The Federal Constitutions express conferral of some powers makes clear that it did not grant other powers at Sea! The Federal Government can **excercise only the powers** granted to it, and here the United States Attorney[s] excede the power granted by the Congress.

The Courts have never held that the Congress has the power, under the Offences Clause, to apply our Federal Drug Trafficking Law[s], to the conduct in the territorial waters of another sovereign State, in this case Nicaragua! Drug trafficking is therefore not a violation of customary international law, and Petitioner Montoya is actually innocent of any U.S. code violation[s] as falsely charged. The criminal jurisdiction of the United States is in general based on the territorial principal, and criminal statutes of the U.S.A., are NOT by implication given an extra-territotial effect:::::....

U.S. vs. Bowman 260 U.S. 94, 98 (1922).

* * * * *

REASONS for GRANTING the PETITION

That Defendant Montoya, did not have effective trained in international law, attorney[s], and the Court[s] in err, did not take judicial notice of the lacking jurisdictional matters here.

The Honorable Court must now see these facts, and it is aware of the international laws the are misrepresented in this case, and the Court must appoint trained counsel to re-litigate this matter that just failed again at Direct Appeal, because Justice must be here served, for the people, and this defendant.

C O N C L U S I O N

=====

For the reasons cited above, and as justice requires, the
Petitioner pray's this Honorable Courts ATTENTION.

The petition for a writ of CERTIORARI should be granted.

Respectfully Submitted;;



169362-018

Jair Mendoza Montoya, Reg. ##

D A T E: 08 / 14 / 19
Month / Day / YEAR *