

UNITED STATES SUPREME COURT

ULRISTE TULIN,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

Case No. 19-6960

Supreme Court, U.S.
FILED
DEC 04 2019
OFFICE OF THE CLERK

PETITION FOR WRIT OF CERTIORARI

On Petition for writ of Certiorari: to United States Court of Appeals for the Fourth Circuit.

Question One

The Fifth Amendment of the Constitution requires a person to answer for a capital, or otherwise infamous crime, only if he is presented or indicted by a Grand Jury. This District Court, however, did not properly instruct the Jury concerning the fact that the accused was not indicted, hence the Jury did not have an opportunity to render an accurate verdict.

Does an inaccurate Jury Instruction on the content of the indictment violate due process of law? (Violation of the Fifth and Fourteenth Amendment of the Constitution).

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CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Fifth Amendment of the Constitution:

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury..."

Fourteenth Amendment of the Constitution:

"... nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its Jurisdiction the equal protection of The Law."

STATEMENT OF THE CASE

The United States indicted Monclairs Saint Louis on four counts of hostage taking, 18 U.S.C. §1203; §1203, 2; §1203, 2; 18 U.S.C. §§924(c), 2. While the U.S. Marshall was picking up Mr. Mont Clair in Haiti, the FBI agent accompanying the Marshalls also picked up Mr. Ulriste Tulin without a legal warrant, extradition order, or an indictment. Once Mr. Ulriste Tulin reached the United States, he proceeded to trial, and the Jury found him Guilty of the charges. The District Court for the Eastern District of Virginia, Alexandria Division sentenced Mr. Tulin to a 240 month sentence. The conviction was affirmed by the Fourth Circuit Court of Appeals.

Mr. Tulin challenged his Conviction and Sentence on a collateral attack (§2255) arguing his lawyer was ineffective when she did not object to the Court's inaccurate Jury Instruction stating Mr. Tulin was part of the Indictment. The Fourth Circuit Court of Appeals affirmed the conviction in an unpublished, per curiam Opinion on 8/23/2019, and again denied the rehearing en banc on 11/05/2019.

STATEMENT OF THE FACTS

The Indictment charged Mr. Monclaire Saint Louis, but not Mr. Ulriste Tulin. An arrest warrant was issued for Mr. Saint Louis, but not for Mr. Tulin. Thus, Mr. Tulin was illegally brought to the United States to answer to a crime of which the Grand Jury did not issue an indictment, all in violation of the Fifth and Fourteenth Amendments of the United States Constitution. Mr. Tulin was jointly tried with the indicted defendant (Mr. Saint Louis).

At the conclusion of the trial, the Court instructed the Jury that Mr. Tulin was indicted by a Grand Jury (See Exhibit JI-32, JI-37, JI-38, JI-42, attached), when in fact the Indictment stated that only one person was indicted and that person is MonClair Saint Louis. (See Exhibit IN, attached). Thus the Jury did not have an opportunity to render an accurate verdict, as the Jury Instruction was inaccurate.

Now, Mr. Tulin challenges the Jury Instruction that included him in the indictment, in which in fact, he wasn't.

This petition ensues.

REASONS FOR GRANTING THE WRIT

The Constitution concluded that "no person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury ... nor shall any state deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Neither the trial Court nor the Appellate Court reviewed the Jury verdict under that standard. The Conviction and its affirmation are in flagrant conflict with the laws of this land (the Constitution).

This inalienable Constitutional right to due process is so vital to a citizen that it is repeated in more than one Amendment of the U.S. Constitution.

An observation of the Jury Instruction (Exhibit JI 32, 37, 38, and JI 42) and the Indictment (Exhibit IN), establishes that the

District Court inaccurately instructed Mr. Tulin's Jury as to the content of the Indictment. This writ does not require any argument or explanation, as the evidence of injustice is on its face.

This Court should grant the writ, vacate the Court of Appeals Judgment, and remand for review in light of the Fifth and Fourteenth Amendments of the Constitution.

CONCLUSION

The Constitution's statutory role, in the Fifth and Fourteenth Amendments, applies to Mr. Tulin. The rule generates claims of actual innocence and due process violations. This Court should Grant writ of Certiorari and remand the case to the Fourth Circuit.

Respectfully Submitted,

Tulio Ulriste
Ulriste Tulin
BOP #89792-083, Unit A-1
FCC Coleman Low
P.O. Box 1031
Coleman, FL 33521

11-29-19
Date

CERTIFICATE OF SERVICE

I, Ulriste Tulin, swear under the penalty of perjury that this motion was delivered in a pre-addressed, postage-paid envelope to the prison mailing authorities on the same day as signed. The petitioner requests that a copy of this motion be forwarded to all interested parties via the CM/ECF docketing system. A true and accurate copy of this motion has been sent by First Class U.S. Mail to the following recipients:

Solicitor General of the United States
Room 5616, Department of Justice
950 Pennsylvania Ave., N.W.
Washington, DC 20530-0001

Tulip Ulriste
Ulriste Tulin
BOP #89792-083, Unit A-4
FCC Coleman Low
P.O. Box 1031
Coleman, FL 33521

11-29-19
Date

VERIFICATION

I, Ulriste Tulin swear upon my oath and under the penalty of perjury that all of the foregoing facts and factual statements are true.

Tulip Ulriste
Ulriste Tulin

11-29-19
Date

CERTIFICATE OF INTERESTED PERSONS

Joseph Attias, U.S. Department of Justice, National Security Division

Ronald Leonard Walutes, Jr., Office of the U.S. Attorney, Eastern
District of Virginia

Michael Phillip Ben'Ary, Office of the U.S. Attorney, Eastern
District of Virginia

U.S. Court of Appeals, Fourth Circuit