

No. 20-6106

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Rafael Cruz — PETITIONER
(Your Name)

vs.

FILED
OCT 07 2020

OFFICE OF THE CLERK
SUPREME COURT U.S.

United States of America RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Fifth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Rafael Cruz #5223D-379
(Your Name)

P.O. Box 24550
(Address)

Tucson, AZ 85734-4550
(City, State, Zip Code)

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QUESTIONS PRESENTED

1) Did the Court of Appeals abuse its discretion when it denied to issue a Certificate of Appealability -- When the District Court did, without intervention, persuade and promise and cause the Defendant to unknowingly plead guilty to "Hostage Taking" when the record is without ambiguity that the Court knew that the Defendant believed he was guilty of kidnapping and the Court promised he could present his evidence and witness at sentencing, this extreme level of judicial interference which effectively denied both Fifth and Sixth Amendment Rights, does it affect the voluntary and knowing nature of a guilty plea?

2) When the district Court during a Rule 11 hearing clearly tells the Defendant: "you thought you were pleading to kidnapping; it very well may be that the facts that's what's presented and that's how the agreement itself is proven; does the Court's clear acknowledgment of the Defendant's beliefs allow for any plea to anything but actual kidnapping?

3) When the district Court and Counsel present continuously referred to "Hostage taking" as "Kidnapping", knowing that the Defendant believes he is there to plead to "Kidnapping", and factoring in the fact the Court was aware of the Defendant's documented mental disability where he has "trouble understanding" things, does this affect the knowing or voluntary nature of the plea?

4) At the point the Defendant said that he understood he was pleading "guilty to kidnapping, not exactly ... that whole thing you read", did the Court abuse its discretion and act as an agent for the Government when the Court did, with intent, convince the Defendant that he could plead to kidnapping and be found to have entered a guilty plea to "Hostage Taking"?

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:

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CASES

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STATUTES AND RULES

Federal Rules of Criminal Procedure Rule 11

OTHER

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 A 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 United States district court appears at Appendix B to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

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 August 4, 2020.

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 _____ (date) on _____ (date) in Application No. ___ 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

- Fifth Amendment Right against self-incrimination
- Sixth Amendment Right to impartial court.
- Sixth Amendment Right to present evidence at "trial".

STATEMENT OF THE CASE

* On February 4, 2014, the Petitioners entered a guilty plea to 18 U.S.C. 1203 "Conspiracy to take Hostage". On May 21, 2014 the petitioner was sentenced to 480 months imprisonment and Five (5) years supervised release. On May 11, 2015 the Court of Appeals affirmed the conviction. On March 19, 2019 the District Court denied the merits of the Petitioner's 28 U.S.C. 2255 motion and declined to issue a Certificate of Appealability. On August 4, 2020 the Court of Appeals declined to issue a Certificate of Appealability.

* This Petition revolves around the Rule 11 hearing and whether the Petitioner's Plea was the result of Judicial interference, Coercion, Mistatement of law and False promises made directly by the Court. This interference is a result of Counsel's failure to object, clarify, and further advocate honestly for his client. The record will clearly show that the judge informed the Petitioner that he would be found guilty of §1203 even if the elements only proved "kidnapping" and not "Conspiracy to take Hostage". Of this fact the record is