

No. 20-6286

IN THE
SUPREME COURT OF THE UNITED STATES

Ruben G. Aragon — PETITIONER
(Your Name)

vs.

The State of Colorado — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

The Tenth Circuit Court of Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

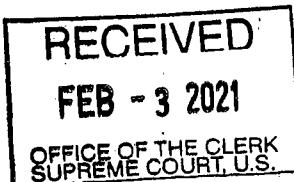
PETITION FOR REHEARING

Ruben G. Aragon
(Your Name)

A.V.C.F. 12750 Hwy 96 at Lane 13
(Address)

Ordway, Colorado 81034
(City, State, Zip Code)

N/A
(Phone Number)



PETITION FOR REHEARING ON WRIT OF CERTIORARI

On October 29, 2020, Mr. Aragon's Opening Brief was filed and placed on the docket on November 12, 2020 as No. 20-6286. The opposing counsel was given notice that the due date for a brief in opposition was December 14, 2020. No response was given. On January 11, the Court entered a denial of certiorari. This timely Petition for rehearing is submitted.

If ever there was a case for a hearing in the United States Supreme Court, this is the one. The end result by which a person is convicted should not justify the means by how it is done. There are a plethora of cases referencing *Santobello v. New York*, mandating that when the government makes a plea agreement with the defendant, it must be kept. These cases affect hundreds of prisoners now and will affect thousands of similarly situated prisoners in the future that rely upon the precedent established by the United States Supreme Court in *Santobello* since 1971.

To allow the erroneous rulings that the lower courts have unjustly committed in Mr. Aragon's case to continue to stand would be a miscarriage of justice. In the interest of justice and Fundamental Fairness, this Honorable Court should at the least intervene and re-affirm the established precedent set in *Santobello*. This precedent is still the established law of the land (is it not?) and the lower courts are obligated, must, and should follow this law. When a defendant reasonably and detrimentally relies upon the prosecutors' promises within a plea agreement, due process requires lawful enforcement of the plea agreement. This is stated recently in *St. James v. People* (citing *Santobello*).

THE COMPELLING REASON FOR GRANTING A REHEARING is one of the initial questions before this Honorable Court. The question is whether the due process protections afforded in *Santobello*, require that when a state, such as Colorado in Mr. Aragon's case contract with a defendant that in return for the waiver of his constitutional rights to a jury trial, the defendant shall receive said stipulated sentence? This Court has not addressed such an important question since *Santobello* and perhaps it is time to finally do so.

ANOTHER COMPELLING REASON FOR GRANTING A REHEARING is the question as to whether a state can intentionally misrepresent or deceive a defendant as a means to an end in order that they obtain a conviction? Moreover, if this occurs, (as it did here), is the defendant required to ferret out these prosecutorial misrepresentations or falsehoods within the time constraints set by the statutes or be forever time barred? In other words, "If" a state can effectively misrepresent or deceive a defendant for sufficient time to allow procedural bar to occur (especially when a state refuses to follow, as it did here, controlling federal law), should they be allowed to get away with it? (how a person is convicted and kept in prison cannot be justified by any means necessary), the Constitution does not allow that.

If ever there was a claim that would allow for equitable tolling, this case is the one. Here, in Mr. Aragon's case, the facts are undisputed. The Plea Agreement is attached to his Opening Brief and a copy is added to this Petition for convenience. (Appendix A and B). The sentencing court erred in denying Mr. Aragon's 35(c). The fact is clear that Mr. Aragon's sentence is an illegal sentence even unconstitutional, specifically requiring him to serve an additional 10 years in violation or excess to the stipulated

plea terms. Mr. Aragon agreed with the state to a 70 year sentence, not 80 years, yet he is being required to serve 80 years. How this is being ignored by the lower courts baffles Mr. Aragon. This violates the double jeopardy, equal protection and due process clauses of the United States Constitution.

The court of appeals refused to address the facts of Mr. Aragon's lawful claim and erroneously ruled that his plea agreement was merely a "recommendation", Mr. Aragon believed wholeheartedly that the Federal District Court would correct this erroneous ruling and properly address the "facts" of his plea agreement. Instead, the court ruled that Mr. Aragon was time barred. Again, Mr. Aragon appealed and believed that the 10th Circuit Court of Appeals would finally address the elephant in the room, the plea agreement. Instead, the Court also ruled erroneously by agreeing with the court of appeals that Mr. Aragon's plea agreement was just a "recommendation" and that Mr. Aragon was time barred. Since the sentence is an illegal sentence, Mr. Aragon cannot be time barred and Mr. Aragon's plea agreement clearly states the conditions of his plea deal. These conditions are not a "Recommendation" and consequently the government refuses to correct or abide by, Therefore, Santobello applies as precedent.

No matter who the individual is or what crime he has committed, we are a Nation of Laws and our Constitution should always prevail. When this Honorable Court sets a precedent, that precedent should be followed and administered by every court equally under law to all the citizens and anyone under our judicial system.

To allow the lower courts to ignore United States Supreme Court clearly established law and issue contrary rulings from their respective courts is a miscarriage of justice to every similarly situated person, not just to

Mr. Aragon. This represents an issue of importance for this Honorable Court to consider.

The federal detainer is not being removed from Mr. Aragon so that he may progress through the system. The Feds claim that Mr. Aragon has to do their 10 year sentence when he is done with his 70 year state sentence. That is not what Mr. Aragon agreed to in either plea agreement. Where is his constitutional rights? where is his remedy? where is his justice?

The end result cannot justify the means. We have rules and laws for a reason and for the most part they have served our great Country well, they should and must be equally applied to all people.

Moreover, Colorado's failure to follow federal law and correct the breach of the terms of Mr. Aragon's plea agreement is an assault upon this Court's jurisdiction as well as Mr. Aragon's due process protection. As such, He respectfully moves this Court to grant a rehearing and grant certiorari and/or rule *per curiam*.

CONCLUSION

THEREFORE, with all due respect, this is a case that the United States Supreme Court should hear.

The Petition for rehearing of certiorari should be granted.

Respectfully submitted this 20th day of January 2021.



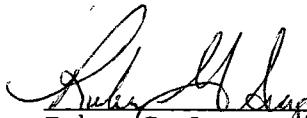
Ruben G. Aragon #153477
A.V.C.F. Unit 4
12750 Hwy 96 at lane 13
Ordway, CO 81034

Pro-Se

CERTIFICATE OF COMPLIANCE

This certificate complies with the Local Court Rules, and is presented in good faith and not for delay. This Petition is presented within the time frame of 25 days from this Court's entry of the denial of the original Writ of Cert. On January 11, 2021. Therefore, this Petition is timely filed before this Honorable Court. It's grounds shall be limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented. Mr. Aragon submits that his previous in forma pauperis status has not changed and all lower courts have granted the same. (See Opening Brief).

Respectfully submitted this 20th day of January 2021.



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