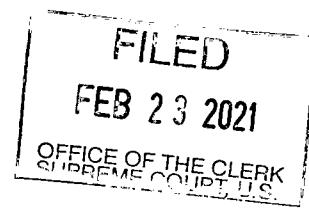


20-7842

No. 18-3019, 18-3033

ORIGINAL



IN THE
SUPREME COURT OF THE UNITED STATES

ELIU LORENZANA-CORDON — PETITIONER
(Your Name)

vs.

UNITED STATES OF AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals, District of Columbia
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Eliu Lorenzana-Cordon - #33578-016
(Your Name)

USP Victorville, P.O. Box 3900
(Address)

Adelanto, CA 92301
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

Did the District Court abuse it's discretion by denying the motion for a new trial without taking into consideration that the document of extradition that showed Petitioner was not provided with proper notice prior to be extradited in violation of the treatie between the United States and Guatemala of 1903 and 1940?

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:

RELATED CASES

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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,
[X] is unpublished.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,
[X] is unpublished.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[] is unpublished.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 1-31-2020.

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.

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).

HONORABLE SUPREME COURT: First and foremost, I thank God for getting me to this place.

The United States Supreme Court was created to invoke the lower courts to honor the Constitutional and basic rights of the people, and the treatment of extradition between the United States, and foreign countries, in this instance, The Republic of Guatemala.

SUMMARY OF CASE

On the 2nd day of April, 2009, a federal grand jury returned with charges against the accused Waldemar and Eliu Lorenzana-Cordon, and thirteen other defendants whom were charged with conspiracy to manufacture, distribute and import cocaine to the United States between March, 1996, until 2009. Afterwards, the defendants were then extradited to the United States from Guatemala. On the 22nd of March, 2016, after a five-week trial, the verdict was guilty for the accused defendants.

The appeal is necessary to correct any decision that deprives one of his constitutional and unalienable right, to include the bilateral treatment of extradition by virtue of the Fifth Amendment to justify any charge(s) presented and brought before a grand jury. This is an extremely grave issue and cannot be treated as a mere disparity, and then later discarded as if the error is non-offensive, as did the

District Court, and the Appellate Court. The court abused its discretion by denying the motion for a new trial, or the prescription of the offenses, without taking into the account that the document of my extradition, because it clearly is a warning that we were made defendant's without proper notice, but also the charges that the government mentioned they've been cured since 1999 until 2003; by not taking into consideration the documents of my extradition violated my guaranty under the treaty between USA and Guatemala of 1903 and 1940. The Special Doctrine and Fifth Amendment.

BILATERAL TREATY OF EXTRADITION

The most serious and respectable agreement between any form of treaty is based on a promise of respect (mutually) to the sovereignty of the Republic of Guatemala. The treaty of 1903 and the complementary of 1940 between USA and Guatemala regarding the extradition of fugitive from justice.

ARTICLE III

The person who is brought forth in virtue of the present agreement is not going to be adjudicated by another, or punished by a crime that has been prescribed for this conviction committed before this extradition, especially when the purpose

of the extradition is not the charges utilized upon having been brought to another country.

SPECIAL DOCTRINE

It's established that once a person is extradited s/he can be processed only for those charges in which s/he was given for extradition. *United States v. Sensi*, 879 F.2d 888, 892 (DC Cir. 1989); *United States v. Lopesierra-Gutierrez*, 708 F.3d 193, 206 (DC Cir. 2013).

FIFTH AMENDMENT

Grants the accused the right to be tried only for the charges s/he has been placed on due notice for. *United States v. Sitzmann*, 714 F.Supp. 3d 96, 122 (DC Cir. 2014).

Keep in mind that the accusations presented to Guatemala speaks of issues in which derived from 1996 until 2009. The accusations that were presented to Guatemala had the direct purpose of extradition.

EXTRADITION

The Guatemalan Tribunal clearly stated: The charges raised against the Guatemalan citizen, as mentioned before, had from 1999-2003, cannot waive the

extradition. It's totally different from the one the US presented. It's clear that I should not be accused of anything other than why I was given to the United States of America, which is the organization of Herrera Garcia N:03-331, which was concluded in 2003.

The District Court abused its discretion when they tried this case as a constructed case within its borders which is not the case. This case implicates a jurisdictional suspension of Article III of 1903, and the US Treaty of 1940 with the Republic of Guatemala for the extradition of fugitives from the law.

Both the District and Appellate Courts have violated our unalienable and constitutional safeguarded rights when they ignored the Formal Extradition Order for which we were released into their care . . . from Guatemala.

From the beginning of the Judicial process, the District Court has dictated decisions based on what the US has presented to Guatemala, without taking into consideration the true purpose of the extradition. Let's be clear, the Third Tribunal of Guatemala gave us up for extradition based on the Herrera Garcia organization that States clearly the years 1999-2003, out of the dates mentioned in the indictment, is a direct violation of the constructive amendment to the accusation for which Guatemala turned us over; ergo, an abuse of discretion from the District court.

When the District Court ignored the Extradition document and accepted the testimony of witnesses outside of the Herrera Garcia organization, and they spoke of things outside of the time indicated by the Statute of Limitation for what Guatemala gave me which is between 1999-2003, that's when the Herrera organization was concluded, automatically contradicted the Fifth and Sixth Amendment in regard to the extradition order it speaks for itself.

During trial the government presented to the witnesses as proof of the following people: Montejo Merida (3/7/2016 @ 0905); Sebastian Cotton (3/7/2016 @ 2:04 PM); David Andrade (3/14/2016); Mallory Chacon (3/15/2016).

The testimony of these four witnesses relate to issues outside the dates for which the extradition order was prescribed, and therefore, can clearly be seen the abuse of discretion of the Court, and they're attempting to justify both known and unknown issues not brought before the grant jury, ergo, turning a blind eye to the truth of the matter.

The government began the trial with the testimony of Byron Linarez, the accountant of the Herrera Garcia organization, who testified from February 23-26, 2016. His testimony clearly articulated that the Herrera Garcia organization concluded all operations since 2003. The second material witness was Otto Herrera, who testified from March 1-3, 2016 (Vol. 6, Appx. 1936). His testimony clearly pointed out that the organization has been concluded since 2003.

The extradition order explicitly states that the charges that stemmed from 1999-2003 differs from the current reasons of extradition. (See Extradition Order: Appendix A.) The document of extradition clearly shows that we were given over to the USA for the alleged ties to the Herrera Garcia organization for things in which transpired between 1999-2003.

THE SUPREME COURT STATES IN STIRONE, ID EN. 217

“The depravation of a right that is so basic is too noticeable to be treated just as a simple variance and to ignore it as an inoffensive error.” Berger v. United States, 295 US 78. The purpose for an accused to be processed by a grand jury is to limit the risk of the charges coming from a group of his peers, that the charges should be independently direct from a judge or prosecutor.

Since *ex parte Bain*, 121 US was decided in 1887, the rule has been that after an accusation has come back from a grand jury his charges cannot be modified or changed except and only except by a grand jury. In this case, the Court ordered that some specific accusations and relevant information that the grand jury had ordered to be illuminated from the accusations so that Bain could be convicted without proof of the particular accusation. Sustaining that this could not be done. Judge Miller, in the name of the Court said, “[U]nder the mandate of a Court, to change part of a formal accusation to adopt to their own notions about

what could have been, or what the grand jury could have probably done if their attention could have been solicited to the changes. The most important fact is the accusation/accused has the right to be before a grand jury and requires a trial for a detained person to be accused of the crime and without the after said, the constitution says, 'Nobody can be obligated to answer' it could person its value and most definitely destroy it." 121 US 110.

THE COURT CELEBRATES ON BAIN

After modification of the accusation, the grand jury presented that it was no longer the same accusation.

"Any other doctrine would determine that the citizens rights were destined to be protected by constitutional disposition under the authority of the court or prosecuting attorney." 121 US 13; ***Stirone v. United States***, 361 US 212, 215-16 (1960).

ATTACHED AS APPENDIX B MY GUARANTEES OF PRESIDENTIAL TREATY

The variance between the extradition order, and proof offered at trial, is enough to prove the constructive modification of the accusations in what the court permitted facts and names out of the scope of extradition, for what Guatemala gave me for extradition with specific dates from 1999-2003. Everything outside of these

dates is a violation to my due process. With the documentation of my extradition and my guarantees, I can prove that there were constructive amendments, the violation of doctrine of special rights of extradition, the presentation of the crime and multiple conspiracies.

If I was extradited for specific charges from 1999-2003, and the Herrera Garcia organization ended in 2003, and my accusation was in March 2009, it was more than five years that the law permits.

This case presents the following to this honorable Supreme Court to make the standards clear of the “extradition,” to the government and the accusations by the grand jury that these accusations constructively violate extradition treaty that Guatemala grants.

CONCLUSION

For reasons mentioned, Mr. Lorenzana-Cordon asks and supplicates respectfully, that this Honorable Supreme Court emit a certiorari to review the mandates and decisions of the District court and Court of Appeals, and not to take

for granted the documentation with the guarantees of extradition with instructions that are being ignored or set aside and that we could get back our freedom.

Without Prejudice,



Eliu Lorenzana-Cordon

Dated: April 14, 2021.