

UNITED STATES SUPREME COURT

United States of America

v.

Raymond I. Aigbelcaen

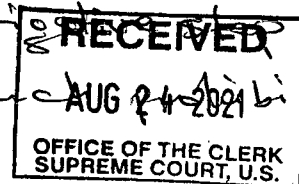
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Case No.: 20-8037

PETITION FOR REHEARING IN
LIGHT OF U.S.V. CANO

Now COMES petitioner Raymond I. Aigbelcaen and moves this Honorable Court for an order granting a rehearing in accordance with Supreme Court Rule 44. The petitioner submits that he has demonstrated that there was a split in circuit court decisions regarding border searches and that the issue is of sufficient national importance to call for a Supreme Court ruling that resolves the circuit conflict. Even more importantly, the petition submits to this Court that refusal to hear this matter leaves the defendant incarcerated while Miguel Cano who was stopped with drugs in his car at the border has been released based on a 9th circuit decision to reverse a district Court's denial of a motion to suppress evidence of a warrantless border search.

In this instant case, there were no drugs in the car and the government agent testified "I had suggested that a border search would be a good investigation in this investigation." This move resembles a search prohibited by this



Court in *Edwards*, *Von Raab* and *Chandler* as well as *Florida v. Wells*.

The Fourth Circuit's decision here is not only incorrect, it appears to be deliberately deceptive. In applying the Good Faith Exception to affirm the case, the court relied on its decision in *U.S. v. Koloz* and quoted it as stating "Based on the uniform and established body of precedent that allowed warrantless search of electronic devices at the border. *Koloz* 790

However the correct reading of the precedent that the Fourth Circuit relied on reads as follows: "CIB agents relied on the uniform body of precedent that allowed warrantless searches of electronic devices at the border that are based on at least **REASONABLE SUSPICION** By omitting "reasonable ~~opportunity~~ to suspicion," part of the case law, the court overrides its own decision without the full panel in an en banc review. This is doubly troubling because the court reached the conclusion in this case that the government lacked reasonable suspicion for the search in question.

Clearly the Court violated the principles of stare decisis by altering its own decision just because it found it necessary to deny relief based on the race of the appellant instead of the facts of the case. In *U.S. v. Cano*, the 9th Circuit declined to apply the good faith Exception citing *Boyd* and it becomes incumbent on this Court to resolve the split and correct the violation of equal protection clause as the petitioner remains incarcerated while Mr. Cano of the 9th Circuit has been released since 2019 on similar facts.

The petitioner urges the Court to Grant, Vacate and reverse the conviction based on the clear principles of stare decisis and to create a uniform decision in the application of the good faith exception and resolve this split between the 4th and 9th Circuits.

Respectfully Submitted:
Raymond Higbeaen
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