

06/02/21
MD

No. 21-190

IN THE
SUPREME COURT OF THE UNITED STATES

CARLOS SANTIAGO

Petitioner

v.

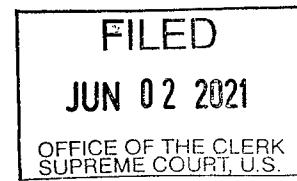
JOSEAN TOUCET ET AL.

Respondent

ORIGINAL



On Petition for a Writ of Certiorari
To the United States Supreme Court
From the Puerto Rico Supreme Court



PETITION FOR A WRIT OF CERTIORARI

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Questions Presented

A = If due process of law is violated when a judge in a hidden trial disappears and erases from his judgment the confession obtained through strong cross-examination as stipulated in the complaint.

B = If the equal protection under the law is breached when a judge denies the complainant his determination so that the complainant cannot appeal the adverse judicial opinion.

**List of all Proceedings in Other Courts That Are Directly Related to the
Present Case in the Supreme Court**

Accusation, *Carlos Santiago, et al v. Josean Toucet, et al*, Q-2008-3-057-3875

(Criminal), Commonwealth of Puerto Rico, Municipal Court, Peñuelas Part.

Judgment Entered November 13, 2008

Josean Toucet, et al v. Carlos Santiago, et al, JDP-2009-0388, Commonwealth of Puerto Rico, Court of First Instance, Ponce Part. Judgment entered August 21, 2019. Not related to the Supreme Court because it was revoked by the Puerto Rico Court of Appeals.

Josean Toucet, et al v. Carlos Santiago, et al, KLAN 2019-0983, Puerto Rico Appeals Court, Judgment entered July 15, 2020.

Josean Toucet, et al v. Carlos Santiago, No. AC-2020-0051, Commonwealth of Puerto Rico Supreme Court, Resolution entered February 8, 2021.

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PETITION FOR A WRIT OF CERTIORARI

The Supreme Court of Puerto Rico in its ruling nothing to provide. The Court of Appeals in its judgment does not respond to the petition. If due process of law is violated when a judge in a hidden trial disappears the confession obtained through strong cross-examination as stipulated in the complaint, is erased from his sentence.

The Supreme Court of Puerto Rico in its ruling nothing to provide. The Court of Appeals in its judgment does not respond to the petition. If the equal protection under the laws is breached when a judge denies the complainant his determination so that the complainant cannot appeal the adverse judicial opinion.

JURISDICTION

Article III, Section II of the Constitution establishes the jurisdiction of the Supreme Court. The Supreme Court has appellate jurisdiction on almost any case that involves a point of constitutional and/or federal law. Therefore, the Supreme Court has the final say over when a right is protected by the Constitution or when a constitutional right is violated.

COMES NOW Carlos W. Santiago, the captioned *Pro Se* undersigned,

Petitioner and very respectfully STATES, ALLEGES AND PRAYS:

I. Statement of the Case

One of the duties and faculties which a judge has regarding the post which they tender, is to guarantee that the state comply with a fair and impartial trial as is established within the Puerto Rico Constitution. Due Process of Law in a trial, as was case #AC-2020-0051 (Appendix 1), does not expire nor acquire an expiration date. Such constitutional right is demanded whenever the prejudiced party gains knowledge of such a breach of his/her rights during a judicial proceeding. Among the faculties and duties which the Puerto Rico Supreme Court bears, is to address such claims whenever lower courts fail to act correctly. It is this highest court which bears the obligation to correct such constitutional non-compliance. In the trial effected on June 21st of 2016, the Trial Court suppressed from its Sentence, the factual confession by the defendants. The Appeals Court erased same from its Ruling, and failed to allude plus erased in its ruling, the admission by defendants as was stipulated in the (criminal) complaint dated August 23rd of 2008. This aberration of judicial procedures has no justification under law. The affirmation of illegally concealing a confession, forceful and exculpatory proof, could not be therefore evaluated by the highest court, since due process of law was not complied with.

In the hearing held on August 23rd of 2008, the judge authorized a police officer, as representative of the State, to exit the court without the proceedings having

concluded. Such unlawful process prompted the complainant to properly submit his case for appeal, since the judicial decision was to be delivered to the police officer. Since that representative of the State (the police officer) was not present in court, the court then denied its decision to complainant. Such failure to comply, by the State, resulted to be discrimination. All decisions, rulings, or sentences must be notified to *both* parties in any litigation. This failure to comply by the State thus becomes an unjustified and unequal treatment (under the law). The court's ruling never reached the hands of the complainant. Moreover, the Court established a classification which insides upon equal protection (and due Process) of the law.

Such transgression of law during stated hearing on August 23rd of 2008, arose when the judge asked the complainant whether he would agree to have the police officer exit the courtroom. Same was an undue interference by the judge, intended to induce one party into error. As to justify said breach of law and judicial impartiality, the judge availed himself on judicial technicalities to clearly favor the opposing party. The Puerto Rico Supreme Court bears the obligation to guarantee impartial judicial proceedings, and to correct such breaches to law, by taking jurisdiction over such matters.

II. Predetermined Judicial Proceedings

An *Ultra Vires* judicial proceeding is one whereby a prejudged decision exists, prior to initiation of a trial or hearing in court. All elements of a *predetermined case* concur in Case # AC 2020-0051 (Appendix 1), which also bear on its agenda, solely to

comply with a judicial proceeding effected just to complete a case docket, since a decision had been taken beforehand. Judicial decisions decided upon beforehand were herein established when the judge, during the trial held on July 21st of 2016, proceeded to conceal the confession regarding unnecessary noises and scandals filed by plaintiffs. The methodology involved by disappearing stated confession from the judgment rests on undermining stated admission, and upon comparing same to a confession involving a robbery, a threat, a crime, a kidnapping, etc. The Court, upon making stated comparison, demoted stated confession by defendants to a degree such, that same does not merit to be considered within the judgment. There does not exist any law or provision whatsoever, to differentiate between one sort of confession or another. There exists no confession which is inferior or of lesser importance than another. A confession is the admission of a *crime*, period. These were the unlawful technicalities which the Court did as to occult exculpatory evidence which favored the defendant. The court affirmed that predetermining any sentence is, under jurisprudence, legal.

Such is how the basic rights of citizens are breached. It is inherent within the adjudicative duties and faculties of the Supreme Court, to correct such unreasonable aberration that is contrary to law, through new jurisprudence.

III. The Court Concealed a Confession

During the trial on June 21st of 2016, at courtroom 605, in Ponce, Puerto Rico, and during cross-examination by plaintiff, Josean Toucet confessed under oath, that

unnecessary noises, shouting and roaring were indeed effectuated during baseball games, and whenever the team that he and his friends followed, made a hit; then they would proceed to shout, be disorderly whenever a run was made, and would make scandals.

The same thing as well, when Mr. Josean Toucet was asked if this happened when he watched basketball games, and he admitted that whenever his favorite team scored points, they would all shout or become disorderly, or do so whenever their team scored 3-point shots, he himself, and all his friends as well. Thus, there *did exist* probable cause.

The Trial Court erred by concealing stated exculpatory evidence regarding nuisance, noises and disorderly conduct admitted by Plaintiff Josean Toucet, during cross-examination. Such was crass negligence by the Court since the judgment makes no reference whatsoever regarding stated confession. Stated evidence exonerated the respondent with regards to any culpability or negligence falsely raised within the complaint. Due to stated omission, stated judgment should have been revoked.

In its ruling, the Court failed to mention that during cross-examination, plaintiffs had admitted to all the facts. They confessed that they had indeed breached the peace by making unnecessary noises and commotions after 12 a. m., in the wee morning hours. Stated admission of facts voids any complaint filed against Carlos W. Santiago. All jurisprudence thus quoted by the Court in its final ruling is therefore null and void, in view of the confession regarding the events given by the plaintiffs.

And there *did exist* probable cause. Such actions by the State (Court) fails to comply with due process of law.

According to the *Puerto Rican Juridical & Law Dictionary*, confessions is defined as: **“A statement made by a person (suspect) who acknowledges to have committed the crime. A confession may be oral or in writing.”**

United States Supreme Court: Pyle V. Kansas, 317 U. S. 213 (1942). A petition for writ of *habeas corpus* alleging that the petitioner is imprisoned upon a conviction obtained through the use of testimony known by the prosecuting officers to have been perjured, and through the suppression by them of evidence favorable to him, sufficiently alleges a deprivation of rights guaranteed by the Federal Constitution, and the denial of the petition without a determination as of the truth of the allegation was an error. In this case *Pyle V. Kansas* means that the suppression of evidence favorable to the accused was itself sufficient to amount to a denial of the due process clause of the fourteenth amendment.

Brady V. Maryland, 373 U. S. 83 – Supreme Court 1963. Withheld by the prosecution in which Boblit admitted the actual homicide favorable in the Brady trial. Suppression of evidence by the prosecution denied petitioner Brady due process of law under the fourteenth amendment. In *Mooney V. Holohan*, 294 U. S. 103.112. Where the court ruled on what non-disclosure by a prosecutor violates due process clause of the fourteenth amendment.

IV. State Representative Abandons the Non-Concluded Hearing

Appearing at the proceedings held on August 23rd of 2008 for the **complaint filed by the People of Puerto Rico versus (Appendix 3)**, appeared defendant Mr. Carlos W. Santiago, jointly with the police officer assigned to said case. The then defendant and later plaintiff, Josean Toucet, appeared with his legal counsel. The hearing was initiated and the first party to testify was the then plaintiff, now defendant, Mr. Carlos W. Santiago, and subsequently the indicated police officer.

Upon concluding his testimony, the officer requested permission from the judge to withdraw, since he allegedly had other police matters to attend. The judge authorized the agent to withdraw from the courtroom, granting him permission to do so, without the hearing having yet ended. The accused party, Mr. Josean Toucet, promptly testified without the presence of the state's representative, the police officer, in the courtroom. After that, his attorneys also did so as well. The court then made its ruling, negligently, as a result of the non-appearance of the police officer, the state's designated witness.

This now defendant Carlos W. Santiago was, at this hearing, abandoned to his own devise, lacking the police officer's presence, whereas the opposing party was the whole time assisted by his counsel, and thus placing the herein appellee at a disadvantage. Moreover, in this case, Carlos W. Santiago was denied the possibility to file any alternative complaint in view of the judicial ruling. As a result of stated judicial ruling of non-existence of probable cause existed, then a complaint alleging malicious persecution was filed against Carlos W. Santiago. The court failed to advise him that, without the police officer's presence in court, he would not be able to advance his case or objections thereto. The State failed to comply with due process of law.

Gideon V. Wainwright: 372 U. S. 335 (1963) US Supreme Court: In stated case, Clarence Gideon was charged in Florida State Court with a felony. Gideon broke into and entered a pool room with the intent to commit a misdemeanor offense. Gideon asked the court to appoint him an attorney, but court denied. The Supreme Court decision as 9-0 majority in favor of Gideon. The Court held that the fourteenth amendment's guarantee of counsel is a fundamental right, essential to a fair trial.

Constitutional Law: Due Process of Law: The Due Process of Law Doctrine entails that the State *bears the obligation* to guarantee that interference with the freedom and property of citizens be effectuated by means of a fair and impartial process. Due process of law protects citizens against actions by the State which *shock the conscience*. As a result of this, governmental authorities are prohibited from basically acting in a fundamentally unfair manner against the citizenry. Under substantive Due Process of Law, the court proceeds to examine the validity of a law, in view of pertinent constitutional precepts, for purposes of protecting the fundamental rights of the people. The State, whenever it approves laws or whenever same carries out any actions, may not affect freedom or any property interests in an unreasonable, arbitrary or whimsical manner. Due process of law, just as are the majority of constitutional safeguards, fundamentally, protect the people *vis-a-vis* the State. That is why, ordinarily, to be able to judicially pose an alleged breach of constitutional law, it becomes necessary that an action was undertaken by the State. The State action is an indispensable requirement for a constitutional claim to move forward under due process of law.

V. Complainant Never Received a Ruling

Appellant Carlos W. Santiago only discovered about the stated judicial ruling on August 23rd of 2008, ten (10) months after being served process; the ruling on no probable cause then appearing (Appendix 4) in the complaint filed against him on June 29th of 2009. In his ruling, the Judge listed that copy of stated document be *personally delivered* to the accused defendant party, Mr. Josean Toucet. It is from the stated document that a civil action arose, and whereby this defendant is placed in a disproportional disadvantage *vis-a-vis* the opposing party. Such a way to have proceeded within justice classifies as discrimination against party Carlos W. Santiago, upon thus not knowing why he was being sued therein. Defendant, now plaintiff, personally obtained a copy of the ruling from the court; nevertheless, this

appellant was never given such a document by the court, nor from the police officer/witness, nor from the District Attorney, to then be able to adequately appeal the case, as was proper. Such a right had been denied to me. It is highly improper that this complainant, Carlos W. Santiago, discovered about the existence of said legal ruling afterwards, and that he was also a defendant in a civil suit, through that same civil action. The stated non-compliance does not justify unequal treatment under the law. The court therefore established a kind of bias among persons by denying this complainant a copy of the stated judicial ruling. The state failed to comply with the constitutional guarantee of equal protection under the laws.

Equal Protection under the Laws: The constitutional principle of equal protection under the law does not demand that equal treatment be given *always* to the citizenry; what it *does prohibit is any unjustified unequal treatment*. The State can provide classifications among persons, without infringing upon equal protection laws, whenever such classification is *reasonable*. To justify use of such a classification, the Court has to identify whether such classification as drafted, affects any basic right of a person, or it establishes any suspicious classification which bears no relationship with the ability or aptitude of those persons affected by stated classification. If such classifications were thus discovered, then stated legislation is therefore presumed to be unconstitutional.

VI. Undue Intrusion by the Court

This violation of law by the court arose when the judge asked complainant Carlos W. Santiago, now the respondent, whether he agreed that the police officer should exit the courtroom. This complainant, unknowingly answered in the affirmative. A definition of what the judge had asked, its implications and consequences of such a captious question entailed, resulted in that it was whether

I was agreeing to waive my constitutional right to be assisted by the State's police officer witness or the district attorney. Such was the undue interference by the judge and that induced this appellant into error. The consequential result of stated question was that the complainant, now respondent, was unable to submit his case for appeal for absence of the state, as represented by the district attorney and police officer, within the courtroom. This in turn entailed initiation of a civil complaint by the then defendant, now plaintiff. In this case, the judge acted with prejudice, partiality or for other reasons, upon improperly intervening with the impartiality due within the judicial system. It was only after the trial that the complainant became aware that the court allowed a breach of his constitutional rights. Stated breaches are contrary to law, and it is proper that such error be remediated, and any subsequent legal actions of civil nature be voided, annulled, and revoked therein.

VII. Preconceived Judicial Proceedings

During the Hearing dated August 23rd of 2008, when Appendix 3 was presented, the judge then authorized the police officer to exit the court without the hearing in full having been concluded. The police officer was who submitted the (criminal) complaint to the court and was duly responsible for hearing the legal ruling as to discuss same with the complainant so that same could have been raised on appeal to another trial court judge, or petition to have such adverse ruling revoked, once properly received. Such would have been the legal steps before a local court. And that legal process was suspended when the judge prompted the State's representative

to exit the court. As a result of such intervention by the court, this complainant was unable to access such judicial ruling for lack of the stated police officer's presence. The judge ordered that copy be provided of the ruling writ to the defendant, personally. The marshal appeared at defendant's residence and hand-delivered copy of the judicial ruling indicating no probable cause. Months later, that same marshal appeared at the home of the defendant and served him the summons and the complaint which was originated as result of the ruling which the complainant never received. The stated judicial ruling appears in the suit as attachment 2-F Exhibit XXIII (Appendix 4), and it was the first time that the complainant, now defendant, gained access to the stated adverse legal ruling. Such preconceived intervention so that the complainant be denied access to the court's ruling until after he was sued, is inherently illegal. The means to access the verdict or ruling was not guaranteed within the time frame stipulated by law to obtain same. Correcting such a prejudice befalls upon the duties and faculties borne by the Honorable Puerto Rico Supreme Court.

VIII. PRAYER

No judicial authority may alter the testimony taken at trial under oath and proceed to formulate any other one, since such action is unlawful, and such a step is unacceptable under the law. A confession in open court does not become subjected to alternate interpretation or criteria by any judge or court, since same is an admission, period. It is not open to discussion or questioning whatsoever. It is an admission

provided as evidence. And the confession admitted to by the now plaintiffs during the trial of June 21st of 2016, is more than sufficient evidence that same did exist. The admission of facts, as reported on August 23rd of 2008 by the herein appellant hold. Such acceptance of the now plaintiff was an acceptance, under oath, of his unlawful infractions. The Honorable Court must have, within its obligations, included stated confession in the case, and which then drastically and radically changed the whole judgment, as per the herein quoted jurisprudence, and must therefore revoke, and apply the law to the facts.

Respectfully submitted.

SO NOTIFIED



Carlos W. Santiago-Rivera

August 4, 2021

Date

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