

No: **21-416**

District case No. 2:18-cr-265

Supreme Court, U.S.
FILED

JUL 16 2021

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

DARELL A. ANDERSON- PETITIONER

VS.

UNITED STATES OF AMERICA- RESPONDENT

**ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE SIXTH CIRCUIT PETITION FOR WRIT OF CERTIORARI**

Respectfully submitted,



DARELL A. ANDERSON#69951-061

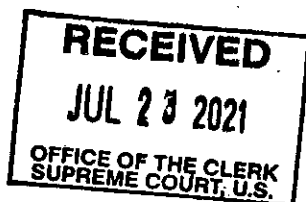
FEDERAL MEDICAL CENTER LEX

P.O. BOX 14500

LEXINGTON, KENTUCKY 40512

CERTIFICATION NUMBER:

7018-1830-0001-9516-1508



QUESTION PRESENTED FOR REVIEW

- (1). The petitioner's direct appeal, as of right, was not adjudicated in accord with due process of law, and the plea agreement contract is vague, and the plea agreement contract was breached...

LIST OF PARTIES

- (1). Kelly Ann Norris (ausa) 303 Marconi Boulevard, suite 200
Columbus Ohio 43215
- (2). Sheila Gay Lafferty (AUSA) 303 Marconi Boulevard, suite 200
Columbus Ohio 43215

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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

(1). For cases from federal courts:

The opinion of the United States court of appeals appears at Appendix A to the petition and is: UNPUBLISHED.

The opinion of the United States District court appears at Appendix B to the petition and is: UNPUBLISHED.

JURISDICTION

(1). For cases from federal courts:

The date on which the United States Court of Appeals decided
my case was: APRIL 20, 2021.

The jurisdiction of this Court is invoked under 28 U.S.C. §1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

CONSTITUTIONAL PROVISIONS:

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STATEMENT OF THE CASE

In this case the petitioner will present 'FACTS' and 'EVIDENCE' clearly showing the 'BREACH OF THE PLEA AGREEMENT CONTRACT' by the UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT. Petitioner will also show the court that plea agreement contract is 'VAGUE' and the Appellate Court did not adjudicate petitioner's direct appeal in accord with due process of law...

REASONS FOR GRANTING THE PETITION

In this case, the petitioner was arrested and removed from his property without an arrest and Search Warrant, and without exigent circumstances, in violation of the Fourth Amendment of of the United States Constitution. Declaring, Federal (DEA) agents conducted searches and seizures of petitioners person(s), property and his car without a 'Lawfully' issued search warrant in violation of the United States Constitution...

Asserting; the Government then filed Indictment (ECF#22), Case No.#2:18-cr-00265(1)(2), filed with the Clerk of Records December 20, 2018 at 1:51p.m., (see; apendix (E))... Further asserting, the Government was shut down by 'EXECUTIVE' Order of the United States President. Declaring, the Indictment (ECF#22), is in violation of the Fifth Amendment of the Constitution (Due Process Clause), enforced by the Fed.R.Crim.P. Rule 6(f), requiring the Grand Jury foreperson to 'return' the indictment in open court, and not by information filed by the Government...

The Government 'ILLEGALLY AND UNLAWFULLY' FILED SEVERAL 'DUPLICITIOUS' AND 'MULTIPLICITOUS' SUPERSEDING INDICTMENT;(SEE; APPEDIX (E)(2)(3)), (ECF#55, #60), CASE NO.#2:18-CR-00265, FILED WITH THE CLERK OF RECORDS ON THE FOLLOWING DATES: NOVEMBER 7, 2019 AT NOON ALSO; NOVEMBER 21, 2019 AT 11:07a.m., THAT WERE UNTIMELY AND NOT RETURNED IN OPEN COURT IN ACCORDANCE WITH RULE 6(f), Fed.R.Crim.P., in violation of the Sixth Amendment; Fifth Amendment; asserting: Title 18 U.S.C. §3161(b)...

Declaring; the trial counsel and Government then violated the defendants (Due Process) by subjecting Defendant to unnecessary mental health evaluation(s) (see; Sealed ecf#41 & #42, competency hearing date of OCTOBER 7,2019...

The District Court violated Defendants 4th,5th and 14th amendment right(s) by permitting the Government to use evidence against Defendant at trial that the Government seized in violation of the 4th amendment (see; ILLEGALLY 'EXECUTED' SEARCH WARRANT; ECF#3; CASE NUMBER: #2:18-MJ-714). Asserting; the District Court would not permit Defendant to challenge the procedure when Defendant had 'NO' counsel, (see; ecf#69 of case no.#2:18-cr-00265)...

Declaring; the U.S. Court of Appeals for the Sixth Circuits decision in its April 20,2021, judgment conflicts with 'relevant' decisions of this Honorable Supreme Court of The United States justifying this courts order to issue the Writ of Certiorari in this case because the record is needed in this matter this Honorable Court must issue the Writ of Certiorari directing the trial Court and the Appeal Court for the Sixth Circuit to deliver the record in this case for review by this court...

ARGUMENT

The Petitioners Direct appeal as of right, was not adjudicated in accord with Due Process of law, and the plea agreement contract is vague, and the plea agreement contract was 'BREACHED'...

Petitioner argues that the United States Court of Appeals for The Sixth Circuit has indeed failed to adjudicate his Direct Appeal in accord with Due Process of law; the contract was Breached by the Government; the contract is vague...

In the Courts order (case no.#20-4053, U.S.A v. ANDERSON), the court held Anderson entered a valid, unconditional guilty plea in the midst of trial,"reserving the right to raise only ineffective assistance of counsel and prosecutorial misconduct claims on appeal", (see; Page 9 of 10 of the courts order, case no.#20-4053)...

In Petitioners direct appeal brief he raised (two) issues as follows: (i)-was trial counsel ineffective; (ii)-did prosecution engage in prosecutorial misconduct,(see; appellants brief filed February 23,2021, with the court of appeals for the Sixth Circuit, page#9,18: case no.#20-4053)...

The Court held that "a thorough review of the record reveals no basis for pursuing any ineffective assistance of counsel or prosecutorial misconduct claims at this time. Thus, the appeal wavier provision in the agreement is enforceable and, assuming that the guilty plea itself is valid, Anderson may not appeal his conviction and sentence"...

The Court further stated in the Order "a valid unconditional guilty plea waives all 'Constitutional violations occurring' prior to a plea of guilty once the defendant enters his plea" unless ex-

pressly preserved in a plea agreement [at] a plea hearing", (citing **UNITED STATES v. LATONDA**, 509 F.3d 750, 757 (6th Cir. 2007: and **HENDERSON** 411 U.S. 258, 267 (1973))...

The petitioner argues that the appeal waiver provision in the plea agreement contract permits defendant to raise on direct appeal 'any' ineffective assistance of counsel claims without a specified limit to certain ineffective assistance of counsel claims...

Here, the Court of Appeals for The Sixth Circuit declined to consider all but petitioners twelfth claim of ineffective assistance of trial counsel. The court stated "ineffective assistance of counsel claims generally are disfavored on Direct Appeal and are brought more appropriately in a 28 U.S.C. § 2255 MOTION TO VACATE, SET ASIDE OR CORRECT SENTENCE", (citing; **MASSARO v. UNITED STATES**, 538 U.S. 500, 504-05 (2003); **UNITED STATES v. WALDEN**, 625 F.3d 961, 967 (6th Cir. 2010))...

This is so because the record usually is not developed adequately and is not complete enough at the time of the direct appeal to permit review of an ineffective assistance of counsel claim, (citing; **MASSARO**, 538 U.S. AT 504-05; **WALDEN**, 625 f.3d at 967). The court further stated, "because the existing record does not demonstrate any apparant errors and is not developed sufficiently as to the issues raised, except for his twelfth claim, Andersons ineffective assistance of trial counsel claims are premature". (citing; **UNITED STATES v. WELLS**, 623 F.3d 332, 348 (6th Cir. 2010), (see; Order pages

#7 & #8, CASE NO.#20-4053)...

Petitioner argues that such terms and conditions were not disclosed to defendant when the Government offered the plea agreement contract to defendant at trial. "The District Court did not inform defendant that ineffective assistance of trial counsel claims generally are disfavored on direct appeal except for claims similar to the twelfth claim". "Trial counsel did not inform defendant of the condition as well. And if, the plea agreement contract stated in writing that ineffective assistance of trial counsel claims are disfavored on direct appeal, except for ineffective assistance of counsel claims similar to the twelfth claim, Mr. Anderson would not have signed the plea agreement contract and mutually agreed to all the terms and conditions listed in the plea agreement contract because defendant would have learned that he had no direct appeal remedy for the ineffectiveness of trial counsel claims he did raise on direct appeal in the appellate's brief"...

Since Mr. Anderson was not made aware of the condition that ineffective assistance of counsel claims are disfavored on direct appeal, the plea agreement contract is 'void and breached' by the Government warranting relief, for Mr. Anderson, from the court...

When the court of Appeals for The Sixth Circuit declined to consider and adjudicate all but the appellate's twelfth claim of ineffective assistance of trial counsel, that decision breached the plea agreement contract. Since the contract was breached by the

Government and Mr. Anderson has no remedy this court should issue the Writ of Certiorari, acquire the record that is available, and grant relief to the petitioner...

Petitioner argues that(AUSA) Kelly Ann Norris engaged in prosecutorial misconduct during his criminal case. Petitioner on direct appeal in the appellants brief raised prosecutorial misconduct issues. Under the appeal waiver provision Petitioner is not prohibited from pursuing 'any' ineffective assistance of counsel or prosecutorial misconduct claims,(see; Order page #2, case no. #20-4053). Mr. Anderson raised (3) prosecutorial misconduct issues in the appellant's brief. The court of Appeals for The Sixth Circuit held in its order that: (i)-first any error in the admission of testimony or evidence at trial and any alleged defects in the indictment were waived when Anderson entered a valid, unconditional guilty plea in the midst of trial reserving the right to raise only ineffective assistance of counsel and prosecutorial misconduct claims on appeal", (citing; Tollett, 411 U.S. at 267, Lalonde, 509 F.3d at 757)...

The three issues raised by appellant in the appellants brief were prosecutorial misconduct claims, under the appeal waiver provision petitioner is permitted to raise 'any' ineffective assistance of counsel or prosecutorial misconduct claims. This includes the three prosecutorial misconduct claims raised by appellant in the appellants brief, it should be noted that the plea agreement contract does not state Mr. Anderson can not raise certain prosecutorial misconduct and ineffective assistance of counsel claims. The term 'ANY'

(DEFINED IN WEBSTER'S II NEW REVERSIDE UNIVERSITY DICTIONARY: (1)- one or more, regardless of sort, quantity, or number, 'any' is clearly written in the plea agreement contract, and the term 'any' was understood by Mr. Anderson to mean "every" existing prosecutorial misconduct or ineffective assistance of counsel claim in his criminal case)....

The plea agreement contract is 'ambiguous' as to which prosecutorial misconduct or ineffective assistance of counsel claims Mr. Anderson could and could not raise on direct appeal. The plea agreement contract in this case should be interpreted against the 'Drafter' the Government...

Within the plea agreement contract, under the appeal waiver provision, Mr. Anderson waived "the right to appeal the conviction and sentence imposed except if the sentence imposed exceeds the statutory maximum". The appeal waiver provision did not prohibit Mr. Anderson from pursuing 'any' ineffective assistance of counsel or prosecutorial misconduct claims. For the appeal waiver provision to prohibit Mr. Anderson from raising 'any' prosecutorial misconduct or ineffective assistance of counsel claims constitutes more than one interpretation, it also does not fairly inform Mr. Anderson of what is prohibited or commanded, violative due process. Had Mr. Anderson fairly understood the appeal waiver provision prohibited certain ineffective assistance of counsel or prosecutorial misconduct claims on his direct appeal, as of right, he would not have entered a plea...

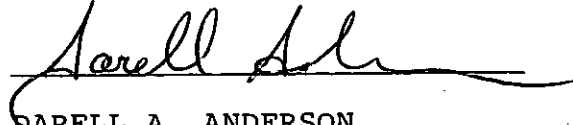
The court of appeals for The Sixth Circuit reviewed the plea agreement contract, and the court determined to not consider and adjudicate Mr. Anderson's claims in accord with Due Process of law citing the appeal waiver provision as its reason to not adjudicate the claims and ignoring the 'Fact' that the appeal waiver provision did not prohibit 'any' ineffective assistance of counsel or prosecutorial misconduct claims which was the only claims Mr. Anderson raised in the appeal's brief, by denying Mr. Anderson the right to have all his ineffective assistance of counsel, and prosecutorial misconduct claims adjudicated on Direct Appeal, as of right, Breached the plea agreement contract and denied Mr. Anderson, constitutional guaranteed Due Process of law... Mr. Anderson, merely raised, in the appellant's brief, valid ineffective assistance of counsel and prosecutorial misconduct claims, that the U.S. Court of Appeals for The Sixth Circuit should have adjudicated in accordance with Due Process of law under the Constitution...

CONCLUSION

The Writ of Certiorari should be issued because there is no other remedy available to the petitioner. And petitioner has been denied the right to a Direct Appeal adjudicated in accord with Due Process of law by the court of appeals for The Sixth Circuit because it relied upon a 'vague' plea agreement contract. The courts decision conflicts with relevant decisions of this Honorable Court and only this Court can declare the plea agreement contract 'Breached' and 'void', grant relief to petitioner, Mr. Anderson...

In accordance with Rule 24(j), Petitioner respectfully request
this Honorable Court to issue the Writ of Certiorari...

RESPECTFULLY SUBMITTED,

A handwritten signature in dark ink, appearing to read "Darell A. Anderson", with a long horizontal flourish extending to the right.

DARELL A. ANDERSON

REG NO.#69951-061

FEDERAL MEDICAL CENTER LEXINGTON

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DATE: August 18, 2021