

NO: 21-416
APPEALS COURT CASE NO: 20-4053
DISTRICT COURT CASE NO: 2:18-CR-265

IN THE
SUPREME COURT OF THE UNITED STATES

Darell A. Anderson-petitioner

VS.

UNITED STATES OF AMERICA-respondent

ON PETITION FOR REHEARING FOR WRIT OF CERTIORARI TO THE SUPREME
COURT OF THE UNITED STATES PETITION FOR REHEARING

REHEARING

RESPECTFULLY SUBMITTED,

Darell Anderson
DARELL A. ANDERSON

REG NO. #69951-061

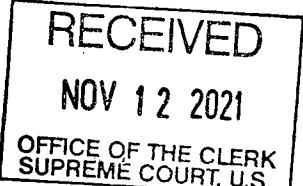
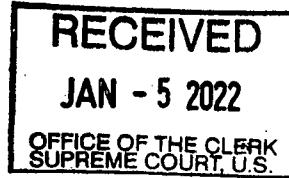
FMC. LEXINGTON

P.O. BOX 14500

LEXINGTON, KENTUCKY 40512

CERTIFICATION NUMBER:

7018-1830-0001-9488-2602



NO:21-416

GROUND PRESENTED FOR REHEARING

GROUND ONE: The Petitioner Darell A. Anderson, was denied Due Process of Law when the Sixth Circuit of the United States Court of Appeals denied his Direct Appeal

NO:21-416

LIST OF PARTIES

(1). Brian H. Fletcher acting solicitor General Counsel of record

**(2). Kelly Ann Norris (AUSA) 303 Marconi Boulevard, suite 200
Columbus Ohio 43215**

**(3). Sheila Gay lafferty (AUSA) 303 Marconi Boulevard, suite 200
Columbus, Ohio 43215**

NO:21-416

TABLE OF CONTENTS

	<u>PAGE NUMBER:</u>
TABLE OF AUTHORITIES.....	5
OPINIONS BELOW.....	6
JURISDICTION.....	7
CONSTITUTIONAL & STATUTORY PROVISIONS INVOLVED.....	8
STATEMENT OF THE CASE.....	9
REASONS FOR GRANTING THE PETITION FOR REHEARING.....	10-11
ARGUMENT.....	11-13
CONCLUSION.....	13
PROOF OF SERVICE & FILING FEE.....	14
INDEX TO APPENDICES.....	14(a)

NO:21-416

TABLE OF AUTHORITIES CITED

PAGE NUMBER

MASSARO V. UNITED STATES.....	11
CLASS V. UNITED STATES.....	11, 12

NO:21-416

IN THE

SUPREME COURT OF THE UNITED STATES
PETITION FOR REHEARING OF
WRIT OF CERTIORARI

Petitioner respectfully prays that a Petition for Rehearing of Writ of Certiorari issues to reveiw the Judgment(s) Below...

OPINIONS BELOW

(1). FOR CASES FROM THE FEDERAL COURTS:

The Opinion of The Supreme Court of the United States, appears at appendix: A, to the Petition and is : unpublished;

(2). FOR CASES FROM THE FEDERAL COURTS:

The opinion of The United States Court of Appeals, appears at appendix: B, to the Petition and is: Published, 2021 U.S. App. Lexis 11673; no. 20-4053; April 20, 2021

(3). FOR CASES FROM THE FEDERAL COURTS:

The Opinion of The United States District Court, appears at appendix: C, to the Petition and is: unpublished

NO:21-416

JURISDICTION

(1). FOR CASES FROM FEDERAL COURTS:

The date on which The Supreme Court of the United States decided Case no, #21-416 is: OCTOBER 12, 2021

The Jurisdiction of this Court is invoked under 28 U.S.C. §1254

(1)...

NO: 21-416

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

CONSTITUTIONAL PROVISIONS:

	<u>PAGE NUMBER:</u>
FOURTH AMENDMENT.....	10
FIFTH AMENDMENT.....	9, 12
SIXTH AMENDMENT.....	9, 10
FOURTENTH AMENDMENT.....	11

STATUTORY PROVISIONS:

TITLE 18 U.S.C. §3161(b).....	10
TITLE 28 U.S.C §1254(1).....	7

RULES:

Fed.R.Crim.P. Rule66(f).....	10
S.C.t. Rule 38(b).....	14
S.C.t. Rule 44.2.....	11, 13

NO:21-416

STATEMENT OF THE CASE

In this case the Petitioner will present 'Facts' and 'Evidence' clearly showing the 'Breach of the plea agreement' by The United State Court of Appeals for The Sixth Circuit. Petitioner will also show the court that the Plea Agreement Contract is 'Vague' and the Appellate Court did not adjudicate Petitioner's Direct Appeal in accord with Due Process of Law guaranteed by the Fifth Amendment of The Constitution...

REASONS FOR GRANTING THE PETITION FOR REHEARING

In this case, the Petitioner was arrested and removed from his private property unlawfully without an arrest warrant or a valid Search and Seizure Warrant, (see; ecf#1,2,3-Search and Seizure Warrant; Case no. #2:18-mj-714), also; (see; Arrest Warrant (ecf#2) Case no. #2:18-mj-715) appendix (D) & (E)), in violation of the Fourth Amendment of The United States Constitution. Declaring, Federal (DEA) agents conducted searches and seizures of Petitioner(s), property and his vehicle without a 'lawfully' issued Search Warrant (see; ~~execution date and time of search and seizure warrant, appendix (D)~~), in violation of The United States Constitution...

Asserting; the Government then filed Indictment (ecf#22), Case No. #2:18-Cr-265(1) & (2), filed with the Clerk of Records **DECEMBER 20, 2018 at 1:51p.m.**, ~~appendix (F)~~... 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(s) (see; ~~appendix (G)-superseding INdictment(ecf#55); appendix (H)-second superseding Indictment(ecf#60)~~, case no. #2:18-CR-265...The following documents were also filed untimely and not returned in open court in accordance with rule 6(f) of the Fed.R.Crim.P., in violation of the Sixth Amendment; Fifth Amendment; asserting Title 18 U.S.C. §3161(b)...

Further asserting; retained counsel and Government then violated the Petitioners (Due Process) by subjecting Petitioner to unnesessary

NO:21-416

mental health evaluation(s); (see; ecf#41 & #42, Procedure never took place)...

Affirming; the District Court for the Southern District violated Petitioners 4th,5th and 14th Amendment right(s) by permitting the Government to use evidence against Petitioner at Trial that the Government 'illegally seized' in violation of the 4th Amendment, (see; illegally executed search warrant (ecf#3) case no.#2:18-mj-714, appendix (D)... Asserting; the District Court denied Petitioner the right to challenge this procedure when Petitioner 'retained' counsel withdrew from appellants case days before trial was to start (see;(ecf#65 & #66); case no.#2:18-Cr-265...

Declaring; the U.S. Court of Appeals for The Sixth Circuit decision in its 'April 20,2021, judgment conflicts with 'relevant' decisions of this Honorable Supreme Court of the UNited States, in **Massaro v. united States 123SCT1690, 155 led.2d 714, 538 US 500;** also see **Class v. United STates 138 S.Ct. 798; 200 L.ed.2d 37,** justifying this courts order to issue the 'Rehearing' for Writ of Certiorari, that was placed on the docket of The Supreme Court on **SEPTEMBER 16, 2021, CASE NO.#21-416,** ordering the Trial Court and the Appeals Court for The Sixth Circuit to deliver the record in this case for review by this court...

ARGUMENT

This case is before The Supreme Court on an application for the allowance of a Petition for 'Rehearing' from the judgment of this Court denying the Petitioner's request for Writ of Certiorari, it being contended that such a rehearing may be taken pursuant to Rule 44.2, rules of the S.Ct., of The United States. This petition is hereby presented to the full court for rehearing...

On Direct Appeal Mr. Anderson Petitioner, sought to raise ineffective assistance of counsel claims and Prosecutorial misconduct

claims. The Court of Appeals for The Sixth Circuit held that Anderson Petitioner could not do so because byu pleading guilty he had waived his Constitutional claims, which conflict with the order(s) rendered in Massaro *supra* and Class *supra*, by The Supreme Court of The United States...

Petitioner argues that he signed a written plea agreement setting forth the terms of the guilty plea, including several categories of rights that he agreed to waive. The agreement said nothing about waiving the right to raise on Direct Appeal 'any' Prosecutorial Misconduct or 'any' Ineffective Assistance of Counsel claims, that occurred before the guilty plea...

This Court has held that 'a ~~Defendants~~ plea of guilty does not waive his previous Constitutional claim(s)', Class v. United States, 138 S.Ct. 798; 200 L.ed. 2d 37; 2018 Lexis 1378; 86 U.S.L.W. 4055; 27 Fla. L. Weekly Fed.S 60...

Here in this case Anderson Petitioner, neither expressly nor implicitly waived his prosecutorial misconduct or his Ineffective Assistance of counsel claims by pleading guilty. The Court should understand that the claims at issue do not contradict the written plea agreement and they can be resolved " on the basis of the existing record."

At 'no' time did Mr. Anderson petitioner relinquish his right to raise Ineffective Assistance of counsel and Prosecutorial Misconduct claims on Direct Appeal, because the Court of Appeals refused to consider Anderson's claims, Anderson Petitioner was denied his guaranteed right to Due Process of law by the Fifth Amendment in violation of the Constitution...

Declaring; a deprivation of the right to a Direct Appeal by the Court of Appeals not supported by law, plea agreement, Federal Rules of Criminal Procedure, or the Federal Rules of Appellate Procedure is a circumstance of a substantial effect and a substantial

NO:21-416

ground not previously presented to this court...

A Rehearing would be appropriate to determine if the plea agreement was **'Breached'** by the Court of Appeals and to determine if the Court of Appeals refusal to consider Anderson's Petitioner's claims denied Mr. Anderson's right to Due Process of Law a Constitutionally protected right. Petitioner contends that the claim raised within this Petition is of a substantial nature earning the attention and the requested relief from this Honorable Court...

Petitioner has indeed made an appropriate showing that a substantial matter, as required by rule 44.2, is presented to the Court, and he respectfully prays that this Court grants this Petition for Rehearing...

CONCLUSION

The Petition for Rehearing of Writ of Certiorari should be issued because there is no other remedy available to the Petitioner. And Petitioner has been denied the right to 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'** and **'ambiguous'** **plea agreement contract**. The Courts decision conflicts with relevant decisions of this Honorable Court in Massaro Supra and Class Supra, and only this Court can declare the plea agreement contract **'Breached'** and **'void'**, please grant relief to petitioner, MR. Anderson...

RESPECTFULLY SUBMITTED,



DARELL A. ANDERSON

REG NO. #69951-061

FMC LEXINGTON

P.O. BOX 14500

LEXINGTON, KENTUCKY 40512-4500

DATE: 11/04/2021

TIME: 9:05 am.

**Additional material
from this filing is
available in the
Clerk's Office.**