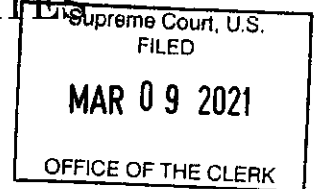


Case No.

21-7410

IN THE

SUPREME COURT OF THE UNITED STATES



In re EDUARDO PINEDA

PETITION FOR AN EXTRAORDINARY
WRIT OF HABEAS CORPUS

“ADDESSED TO”

ASSOCIATE JUSTICE CLARENCE THOMAS
OF THE SUPREME COURT OF THE UNITED STATES

28 U.S. Code § 2241, §.2242

Eduardo Pineda, pro se
BOP. No. 27156-078
FCI Beaumont Low
P.O. Box 26020
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I. QUESTION PRESENTED

Eduardo Pineda petitions for writ of habeas corpus from Associate Justice Clarence Thomas of the Supreme Court of the United States. "In the early days of the Republic, it would have been unthinkable that Congress could prohibit the local cultivation, possession, and consumption of marijuana." *Gonzales v. Raich* 545 U. S. 1 (2005) Justice Thomas dissent Sec, A 2nd par. Last sentence.

"The writ of habeas corpus . . . is the liberation of those who may be imprisoned without sufficient cause. *Ex Parte Watkins*, 28 U.S. 193, 202 (1830) Chief Justice Marshall.

1. THE QUESTION is whether being incarcerated a substantial denial of Petitioner's constitutional right of liberty, without "sufficient cause," without compelling reasons for the United States Congress to proscribe marijuana as a dangerous substance, therefore without due process of law in violation of Amendments IV and V of the Constitution of the United States and unconstitutional.

II. PARTIES TO THE PROCEEDING

Eduardo Pineda, prisoner, is in the custody of:

The Warden ?
FCI Beaumont Low
5560 Knauth Rd.
Beaumont TX 77705
409-727-8172

III. RELATED CASES 28 U.S.C. 242

United States District Court, District of Eastern Texas.

- 1. *Pineda v U.S.A* 6:20-CV-599. Judgment 06/28/2021
- 2. *United States v. Pineda*, 6:17-CR-00039-JDK-JDL (1) Judgment 11/12/2019.

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V. CASE BELOW
(28 U.S.C. 2242)

Pineda v U.S.A. Case No. 6:20 cv 599; United States District Court, District of Eastern Texas. (Citation not known). Appendix A. Order Adopting Report of Recommendation of the United States Magistrate Judge was entered 06/28/2021. Appendix. B. Report and Recommendation of the United States Magistrate Judge 06/10/21. Appendix C. Judgment, 06/28/2021.

VI. ORIGINAL JURISDICTION

Writs of habeas corpus may be granted by the “Supreme Court, any justice thereof.” Title 28 U.S.C. § 2241, § 2242. A justice of this court has original jurisdiction to grant, deny or order a response to show cause why the writ should not be granted. 28 U.S. C § 2243.

VII. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. Constitution of the United States

Article III Section 2. The Judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution . . . to Controversies to which the United States shall be a Party;

Amendment IV The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, shall not be violated;

Amendment V. No person shall be . . . deprived of life, liberty, or property, without due process of law;

2. United States Code

21 U.S.C. § 841 (a)(1), (b)(1)(B), 18 U.S.C. § 2- Manufacture and Possession With Intent to Manufacture and Distribute 100 or More Marihuana Plants and Aiding and Abetting. App. 8.

28 U.S.C. § 2241 (a) Writs of habeas corpus may be granted by the Supreme Court, any justice thereof, [. . .] (c) The writ of habeas corpus shall not extend to a prisoner unless [. . .] (3) He is in custody in violation of the Constitution .

28 U.S.C. § 2242 If addressed to the Supreme Court, a justice thereof . . . it shall state the reasons for not making application to the district court of the district in which the applicant is held.

28 U.S.C. § 2243

A court, justice or judge entertaining an application for a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.

The writ, or order to show cause shall be directed to the person having custody of the person detained. It shall be returned within three days unless for good cause additional time, not exceeding twenty days, is allowed.

The person to whom the writ or order is directed shall make a return certifying the true cause of the detention.

When the writ or order is returned a day shall be set for hearing, not more than five days after the return unless for good cause additional time is allowed.

Unless the application for the writ and the return present only issues of law the person to whom the writ is directed shall be required to produce at the hearing the body of the person detained.

The applicant or the person detained may, under oath, deny any of the facts set forth in the return or allege any other material facts.

The return and all suggestions made against it may be amended, by leave of court, before or after being filed.

The court shall summarily hear and determine the facts, and dispose of the matter as law and justice required.

28 U.S.C. 2253 (c) (2) A certificate of appealability may issue under

paragraph (1) only if the applicant has made a substantial showing of the denial of a constitutional right.

28 U.S.C. § 2255. (a) A prisoner in custody under sentence of a court established by Act of Congress claiming the right to be released upon the ground that the sentence was imposed in violation of the Constitution of the United States, [. . .] or is otherwise subject to collateral attack, may move the court which imposed the sentence to vacate [. . .] the sentence.

VIII. STATEMENT OF RELATED CASE
Title 28 U.S.C. § 2242.

Petitioner made application for habeas relief to the District Court of Eastern Texas in which the applicant was convicted. Petitioner filed Title 28 Chapter 153 Habeas Corpus § 2255 Motion to Vacate conviction. (App. 8) *Pineda v U.S.A.* 6:20 cv 599. The Court's Order is dated 06/28/2021. (App. 1); Judgment was 06/28/2021. (App. 7) (Citations of JUDGMENT and ORDER not known.)

Petitioner's § 2255 Motion to Vacate:

"Ground One: Mr. Pineda is in custody in violation of Amendments IV and V of the Constitution of the United States. He is being deprived of his liberty without compelling reasons for Congress to proscribe marijuana therefore without due process of law." (App. 10)

Court's Judgment: (App. 7)

[I]t is hereby ORDERED that Movant's motion to vacate, set aside, or correct his federal sentence pursuant to 28 U.S.C. § 2255 is DENIED . . . and Movant is DENIED a certificate of appealability sua sponte. (App. 2, 4, 5)

IX. REASON FOR GRANTING EXTRAORDINARY
WRIT OF HABEAS CORPUS

By denying certificate of appealability, the District Court of Eastern Texas declared being incarcerated is not a substantial denial petitioner's

constitutional right of liberty, freedom physical restraint. 28 U.S.C. 2253

(c)(2). Justice is not the guardian of liberty.

Mr. Pineda has been in federal custody, deprived of his constitutional right of liberty for over 5 years now for violating federal marijuana laws.

(App. 8) Habeas relief is to show sufficient cause, compelling reasons to justify a criminal law that deprived Petitioner's liberty.

"Every person has a fundamental right to liberty" *Chapman v. United States*, 500 U.S. 453, 465. (1991). "[L]iberty [. . .] freedom from bodily restraint." *Meyer v. Nebraska* 262 U.S. 390, 399 (1923). "[C]riminal statutes, be subjected to the most rigid scrutiny." *Loving v. Virginia*, 388 U.S. 1, 11 (1967) "One's right to life, liberty, and property, [. . .] may not be submitted to vote; they depend on the outcome of no elections." *West Virginia Board of Education v. Barnette*, 319 U.S. 624, 638 (1943).

U. S. Congress proscribing marijuana as a controlled dangerous substance "is without support in reason because the article, although within the prohibited class, is so different from others of the class as to be without the reason for the prohibition." *United States v. Carolene Products Co.*, 304 U.S.144,154 (1938).

Marijuana is safe to use without medical supervision.

Due process of law requires the government to provide compelling reasons to use police power in protecting the rights of others, public health and safety, to deprive Petitioner's constitutional right of liberty. The government

cannot show that marijuana is a noxious, deleterious plant to be a federal controlled dangerous substance, a drug crime.

“The validity of regulatory measures may be challenged on the ground that they transgress the Constitution, and thereupon it becomes the duty of the court, in the light of the facts in the case, to determine whether the regulation is reasonable and valid or essentially unreasonable, arbitrary and void.” *Norfolk & W.R. Co. v Public Service Commission of West Virginia* 265 U.S. 70,74 (1924)

X. CONCLUSION

For the foregoing reasons, Associate Justice Clarence Thomas should forthwith award the writ of habeas corpus, the great writ of liberty, freedom from physical restraint, freedom from federal custody, to Eduardo Pineda.

OR issue an order directing the Solicitor General of the United States to show “sufficient cause,” compelling reasons for the Congress of the United States to proscribe marijuana as a dangerous substance, a drug crime. To respond within 3-20 days to justify why this writ of habeas corpus should not be granted. (28 U.S.C. § 2243, 2nd clause)

Respectfully submitted,

/s/Eduardo Pineda, pro se
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Dated: 03/09/2022