

Case No.

21-7410

Supreme Court, U.S.
FILED

APR 27 2022

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

In re EDUARDO PINEDA

PETITION FOR REHEARING
FOR EXTRAORDINARY WRIT OF HABEAS CORPUS

“ADDRESSED 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
Beaumont, TX 77720

PETITION FOR REHEARING
FOR EXTRAORDINARY WRIT OF HABEAS CORPUS

Petitioner's Extraordinary Writ of Habeas Corpus was denied April 18, 2022.

The grounds for rehearing are the intervening circumstances of a substantial and controlling effect of Supreme Court Rule 20.4. (b). This rule denies equal protection of federal law thereby due process of law.

Rule 20.4. (b) is inconsistent with Acts of Congress for habeas corpus, 28 U.S.C. §§§ 2241,2242, 2243. Being inconsistent contravenes 28 U.S. Code § 2071.

28 U.S. Code § 2071 Rule-making power generally

(a) The Supreme Court and all courts established by Act of Congress may from time to time prescribe rules for the conduct of their business. Such rules shall be consistent with Acts of Congress.

RULE 20. 4. (b) IS INCONSISTENT WITH RULE 20. 4. (a)

Rule 20.4. (b) Habeas corpus proceedings, except in capital cases, are ex parte, unless the Court requires the respondent to show cause why the petition for a writ of habeas corpus should not be granted . . .

Rule 20. 4. (a) A petition seeking a writ of habeas corpus shall comply with the requirements of 28 U. S. C. §§ 2241, 2242.

28 U.S. Code § 2241

(a)Writs of habeas corpus may be granted by the Supreme Court, any justice thereof, the district courts and any circuit judge within their respective jurisdictions.

(b)The Supreme Court, any justice thereof, and any circuit judge may decline to entertain an application for a writ of habeas corpus and may

transfer the application for hearing and determination to the district court having jurisdiction to entertain it.

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

Federal laws are consistent. The petition for extraordinary writ of habeas corpus to the Supreme Court of the United State is addressed to a justice thereof to grant, deny, or order a response for the court to review. 28 U.S.C. § 2243.

The requirement of 28 U.S.C. § 2242 is moot. Application was filed for habeas relief by §2255 Motion to Vacate in the U.S. District Court, District of Eastern Texas.in which petitioner was convicted. (Writ p. 3, App. D) The district court denied the motion and the certificate of appealability. (Writ p. 3, App. 2, 5, 7) The lower court has declared that being incarcerated is not a substantial denial of any constitutional right of liberty, freedom from physical restraint. (App. 10, 13)

This demonstrates that adequate relief for an Article III case and controversy, deprivation of liberty by the United States of America, was not obtained from the U.S. District Court, District of Eastern Texas. Petitioner has a right of due process to know the compelling reasons for the United States Congress to criminalize marijuana and deprive him of his liberty by government police power.

RULE 20.4. (b) IS INCONSISTENT WITH 28 U.S.C. § 2243.

28 U.S. Code § 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.

Rule 20.4. (b) of this court does not provide adequate relief established by federal law, 28 U.S. Code § 2243 . Writs are distributed to the court, not to a justice thereof, to decide whether to order a response from the government to show why the petition should not be granted. Rule 4. (b) does not grant or deny the writ because there is no “adjudication on the merits” of the question presented, “therefore does not preclude further application to another court for relief sought.”

Rule 20.4. (b) . . . Neither the denial of the petition, without more, nor an order of transfer to a district court under the authority of 28 U. S. C. § 2241(b), is an adjudication on the merits, and therefore does not preclude further application to another court for the relief sought.

The Petitioner has already been to the District Court of Eastern Texas where he was convicted in compliance of 28 U.S.C. § 2242. Mr. Pineda has been denied habeas relief for deprivation of liberty without compelling reasons for U.S. Congress to proscribe marijuana as a dangerous controlled substance, therefore without due process of law. He has been denied a Certificate of Appealability by District Court of Eastern Texas because being incarcerated is not a substantial denial his constitutional right of liberty. (writ p 3, App. 2, 5, 7)

Again, the Petitioner has sought habeas relief from the District Court of Eastern Texas where he was convicted in compliance with 28 U.S. Code § 2242. (App. D) He has nowhere else to go but to this Court for habeas relief.

CONCLUSION

The intervening circumstances of a substantial and controlling effect of Supreme Court Rule 20.4. (b). is inconsistent with Acts of Congress, Title 28 U.S. Codes §§§ 2241, 2242, 2243. Being inconsistent contravenes 28 U.S. Code § 2071.

Supreme Court Rule 20.4. (b) denies equal protection of federal law thereby due process of law and unconstitutional.

The Court can direct the Clerk of the Court to transmit the writ of habeas corpus to Justice Thomas, 28 U.S. Code § 2243. The Court could grant the writ for habeas relief. The Court could Order the Solicitor General of the United States, representing the custodian, to respond to Mr. Pineda's Petition for Extraordinary Writ of Habeas Corpus to show cause why the petition should not be granted.

28 U.S.C. 2243 2nd clause. 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.

In custody of the United States of America,

/s/ Eduardo Pineda, pro se
BOP. No. 27156-078
FCI Beaumont Low
P. O. Box 26020
Beaumont, TX 77720

Dated: April 27, 2022

Certificate of Good Faith

Petitioner, Eduardo Pineda, certifies that petition for rehearing is presented in good faith and not for delay and restricted to the ground specified in Supreme Court Rule 44, intervening circumstances of a substantial or controlling effect of Rule 20.4. (b).

Dated April 27, 2022

/s/Eduardo Pineda