

21-7785

ORIGINAL

M. D. Pa., 3:16-CR-00091-002

IN THE

FILED

FEB 01 2022

OFFICE OF THE CLERK
SUPREME COURT, U.S.

SUPREME COURT OF THE UNITED STATES

Rafael Loria — PETITIONER
(Your Name)

vs.

United States of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Third Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Rafael Loria
(Your Name)

710 Pence Street
(Address)

Hazleton, PA 18201
(City, State, Zip Code)

570-790-4575

(Phone Number)

RECEIVED

MAR - 1 2022

OFFICE OF THE CLERK
SUPREME COURT, U.S.

UNITED STATES SUPREME COURT

RAFAEL LORA,
Appellant,

No. 20-3586

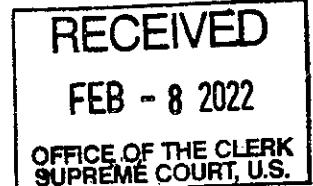
v.

(M.D. Pa., 3:16-CR-00091- 002)

UNITED STATES OF AMERICA,
Appellee,

On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Third Circuit

PETITION FOR WRIT OF CERTIORARI



Comes Now, Rafael Lora (Appellant) Pro se, and will humbly and respectfully submit his Petition requesting for Writ of Certiorari, regarding his direct appeal to the Third Circuit Court of Appeals and his denial of rehearing enbanc.

I. Question Presented :

On Direct Appeal, the Appeals Court denied, neglected, avoided, and failed to document the appellants submitted evidence (appendix) and did the same for supporting case law, completely showed signs of prejudice, and to be bias against the appellant, violating his fair rights to justice, and to his fundamental constitutional rights, as it's clearly stated on *Franks vs. Delaware.*, *Whitlock vs. Brown.*, *United States vs. Basham.*....and many other submitted case law to the appeals court, that The Fourth Amendment prohibits an affiant in an application for a search warrant "to knowingly and intentionally or with reckless disregard for the truth, make a false statement." as well as, **Due Process Clause requires** the Court's to vacate the conviction in "extreme cases in which the government's conduct violates fundamental fairness." *United States v. Stinson*, 647 F. 3d 1196, 1209 (9th Cir. 2011)(citionation omitted). In other words, a conviction must fall where "the conduct of law enforcement agents is so outrageous that due process principles would absolutely bar the government from invoking judicial process to obtain a conviction." *United states v. Russel*, 411 U.S. 423, 431-32, 93 S. Ct. 1637, 36 L Ed. 2D 366(1973) "C]onvictions premised on deliberately fabricated evidence will always violate the defendants right to due process." *Avery v. City of Milwaukee*, 847 F. 3d 433, 439 (7th Cir. 2017)(emphasis added); see also *Mooney v. Holohan*, 294 U.S. 103, 112, 55 S. Ct. 340, 79 L. Ed. 791 (1935)(explaining that the use of perjured testimony " to procure the conviction and

imprisonment of a defendant is as inconsistent with the rudimentary demands of justice as is the obtaining of a like result by intimidation"); Whitlock v. Brueggemann, 682 F. 3d 567, 580 (7th Cir. 2012). Moreover, misconduct of this type that results in a conviction might also violate the accused's right to due process under the rubric of Brady v. Maryland, 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2D 215 (1963), and Kyles v. Whitley, 514 U.S. 419, 115 S. Ct. 1555, 131 L Ed. 2d. 490(1995).

II. The Appellant properly submitted in his appendix to the United States Court of Appeals for the Third Circuit fabricated evidence that was used against the appellant/Lora by the government (fake lab report, unsigned) and Pg. 5 of the affidavits with false statements, unsupported by any semblance of probable-cause and which was used to obtain illegal search warrants, committing perjury in the affiants actions.

III. The appellant also points out the fact that no real legal laboratory report exist on the record, that there exist no chain of custody for this alleged "drug" and the district judge never signed, sealed, dated or documented such evidence, meaning the judge never saw this "drug" that the appellant was incarcerated for.

IV. We have agents on the record giving full statements that there wasn't any drugs in the package when it was delivered to the Peace St. residence, and that they never saw it. (**Doc. 202 at 8:13, 39:9 and 57: 2-4**), these same agents are also found on the record, confessing that the appellant was never given his Miranda warnings.

The case was fabricated from the whole cloth, the appellant is actually innocent, and the appellant is being denied relief despite having, and submitting all the indisputable evidence found in the submitted appendix to the Third Circuit Court of Appeals, and by the confession of the agents themselves, *supra*.

Therefore, as this Honorable Court can plainly see, the appellant is actually innocent, and the evidence and case law need to be properly reviewed and documented, and it's of extreme importance that a Writ of Certiorari be granted, in order for true justice and true review of this matter be properly done.

*The Appellant is acting Pro se, is unlearned in the complex Federal Laws, and therefore, the appellant request that this Honorable Court of Appeals, construed liberally pursuant to see: Haines v. Kerner, 404 U.S. 519, 92 S. Ct. 595, 30 L. Ed. 2d. 652 (1972). The appellant would also point out, that this humble appeal is of extreme, and extraordinary circumstances where the appellant presents indisputable, and incontestable fabricated evidence on behalf of the government; where the appellant points to evidence that is not found on or off the record, such as an official legal lab report, chain of custody, and sealing order for the alleged "cocaine" from the Federal Court Judge in charge of this case. Where also, the appellant points to confessions from the agents where the agents (Feil, Troy, and David Heinke) state that "NO" drugs, where ever present in the "package", and they never saw it, when it was delivered to the Peace St. residence on March 30th, 2015.

UNITED STATES SUPREME COURT

RAFAEL LORA,
Appellant,

No. 20-3586

v.

(M.D. Pa., 3:16-CR-00091-002)

UNITED STATES OF AMERICA,
Appellee,

**AMENDED PETITION FOR
WRIT OF CERTIORARI**

Comes Now, Rafael Lora (Petitioner) Pro se, and will humbly and respectfully submit his Amended Petition with corrections, as requested by this honorable Court.

On March 1 st, 2022, This Court returned petitioner's submitted documents, requesting redaction of names of minors, a concise statement of the case. Rule 14.1 (g) and reasons relied on for the allowance of the Writ. Rules 10 and 14.1(h).

- As requested, names of minors have been redacted.

A concise statement of the case. Rule 14.1(g) is as follows:

- On March 17th , 2015, CBP officer Leung, claims to have examined a package to which his states to have allegedly found a white powdery substance, and also claims to have conducted (3) different Presumptive Drug Test to which he claims to have come up positive for the presence of Methamphetamine. Officer Leung, fails to submit any proof of his finding and submit a chain of custody regarding his alleged finding.
- On March 19th , 2015, HSI Officer Michael T. O'Hagan, claims to have taken custody of this alleged white powdery substance, but also, claims to have in his possession “one thousand grams”, and amount **Not** stated or documented by Officer Leung on the affidavits, but also states to have conducted further testings for Methamphetamine (undermining Officer Leung), and one last one for Cocaine where he affirms that this alleged illicit substance is indeed a narcotic, but never sends his findings to the Crime Laboratory for proper confirmation, where this officer, takes it upon himself to include false statements in the affidavits, and fabricate a (**Fake**) laboratory report in order to Mislead the Courts and finally obtain illegal Search Warrants; an act considered to be Purgery.

- On March 30th, 2015, the officers using the illegal search warrants, rammed the door down to the Peace St. residence without Knocking or announcing themselves, violated the petitioner's fifth amendment right to counsel while under custodial interrogation, as the petitioner made it loud and clear that he wanted counsel present, never administered the petitioner's Miranda Warnings, as proven by the record.
- On March 30th, the Petitioner/Lora was arrested, and for Four years from that day he was on Pretrial release, to later be Coerced into an illegally obtained Plea Agreement, and on June 20th, 2019, was requested for the petitioner to hand himself in to the Marshall, and later incarcerated in the Lackawanna County Prison for 2 Yrs. Sentenced On 12/21 and later released from his incarcerated state on February 28th, 2021. The petitioner was charged with Conspiracy, on a Fabricated case, where the District Court itself never saw or handled any substancial evidence, as none exist on the record, but only fabricated and unsigned documentation, a violation of the petitioner's Due Process rights. Therefore, all decisions from the lower courts up to this point in time have been in collusion and with the government in order to cover up this heinous crime committed against the petitioner/Lora.

The Reasons relied on for the allowance of the Writ. Rules 10 and 14.1(h)

The bias actions of the Third Circuit Court of Appeals, are not so much that conflict with a decision by a state court, but more seriously involve the Appeals Court neglecting to acknowledge such decisions by other courts and completely turning a blind eye to these controlling case laws in order to completely and utterly deny the petitioner. who's claim is of **Actual innocence** from this case.

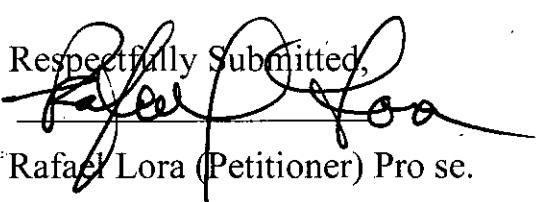
- The Third Circuit Appeals Courts review and decision on the petitioner's case was and still is, fully bias, as none of the evidence was considered and documented. The Appeals Court neglected the Appendix and supporting case Law in order to deny the petitioner relief.
- The Third Circuit Court of Appeals was presented with multiple decisions from the 7th Circuit and up to the 9th circuit, regarding fabricated evidence, unsigned documentation, false statements within the affidavits, and Purgery, as found in this specific case. All of which would grant relief from this case, yet the reviewing court turned a blind eye to these violations in order to please the lower courts bias and prejudice decision and ruling.
- In this specific case, their exist NO laboratory report, NO chain of custody, or a sealing order for the so called "white powdery substance"; the District Court never handled such alleged evidence. There exist NO proof that the presumptive drug field test where ever really conducted, yet the appeals Court denies the Petitioner relief on direct. The petitioner submits Proof of the fabrication of this case by the

government and its agents to the courts, but no relief is afforded.

- Fabricated Evidence will always violate the defendants Due Process rights, and convictions of this type should be vacated as the Fundamental Constitutional rights demands.
- Please see, Manuel v. City of Joliet, Ill., 137 S. Ct. 911, 913, 197, L. Ed. 2D 312(2017), and, Michel v. United States, 2018 U.S. Dist. Lexis 23638 (S.D. Cal., February 13, 2018) on presumptive drug field test and the importance of submitting any discoveries by the officers to be believed to be an illicit narcotic to the crime laboratory, as well, as the in Effectiveness of such test. Also see, Franks v. Delaware; United States v. Basham, 268 F. 3d 1199, 1204(10th Cir. 2001)(citing Franks, 438 U.S. At 171-72) where an affiant makes a false statement in an affidavit for a search warrant, **the warrant must be Voided**.
- The agents themselves on the record state that they never read the petitioner's Miranda Warnings, but yet NO relief is afforded by the Courts. See, Miranda vs. Arizona.
- On the Appeals Courts decision on October 7th , 2021, the court states on page 5 "While the waiver may be overcome by good cause, Lora has shown no good cause for reconsideration here". Lora, submitted fabricated evidence (unsigned) to the court and points out the false statements found within the affidavits, and the fact that NO actual real laboratory report exist, NO chain of custody or a sealing order by the court exist is more than enough reasons to overcome and show good cause for reconsideration and to vacate the conviction. Also, we have the agents testifying on the record that NO miranda warnings where administered.

Those are more than enough reasons to consider a Writ, and the Petitioner hopes and prays this court will grant such relief.

Respectfully Submitted,


Rafael Lora (Petitioner) Pro se.

Sworn: Title 28 U.S.C § 1746, this day 28 of April, 2022.