21-7954

IN THE
SUPREME COURT OF THE UNITED STATES

ORIGINAL

JORDAN MONROE

Petitioner,

V.

UNITED STATES OF AMERICA,

Respondent,

PETITION FOR IN FORMA PAUPERIS

JORDAN MONROE,
PETITIONER PRO SE
FCI OTISVILLE
P.O. BOX 1000
OTISVILLE, NY 10963

MOTION TO PROCEED IN FORMA PAUPERIS

Now Comes Jordan Monroe with a pro se motion to proceed in Forma Pauperis.

Jordan Monroe, also known as Petitioner, has been indigent since the inception of the Government's criminal case in the district court, and was assigned a Federal Public Defendar and subsequently an attorney to replace the Federal Defender under the Criminal Justice Act of 1964, 18 U.S.C. §3006A, in the District of Rhode Island and also under §3006A in the appellate court for the First Circuit.

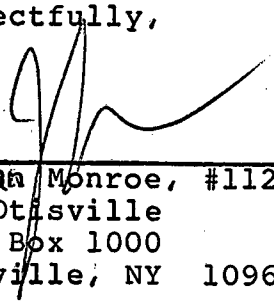
Petitioner is currently confined to FCI Otisville in Otisville, New York and has no financial means with which to hire representative counsel.

Currently due to Covid, the law library and all associated material are unaccesable including Forms that may be needed for filing. Enclosed is a copy of the letter sent to the Court on or about December 8, 2021, requesting any and all material needed for filing in the Court. To date no such material has arrived and or been delivered to Petitioner. Petitioner is again requesting the court forward any and all documents needed to file with the court be forwarded to Petitioner at the address listed below.

Petitioner respectfully requests the Court grant this motion and allow Petitioner to proceed in Forma Pauperis

Submitted on this 19 day of March 2022.

Respectfully,



Jordan Monroe, #11272-070
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P.S. Please mark all the mailed material as "Legal Mail" and "Open in Presence of Inmate" as the BOP is not forwarding original documents otherwise.

IN THE
SUPREME COURT OF THE UNITED STATES

JORDAN MONROE

Petitioner,

V.

UNITED STATES OF AMERICA,

Respondent,

7021 0950 0000 9366 8277 22 March 22

7021 0950 0000 9366 8246 9 May 22

PETITION FOR A WRIT OF CERTIORARI

JORDAN MONROE,
PETITIONER PRO SE
FCI OTISVILLE
P.O. BOX 1000
OTISVILLE, NY 10963

QUESTIONS PRESENTED

1. Is the warrant herein, (PEX1), as a matter of law, an invalid search and seizure warrant that was issued to search the premises of Petitioner's home?

2. Does a District Court's refusal to conduct a hearing to determine the legality of the search and seizure warrant, in spite of Petitioner's repeated objections, when the Petitioner had met the prima facie showing of an invalid warrant, violate Petitioner's Constitutional rights?

RELATED CASES

Groh v. Ramirez, 540 U.S. 551 (2004), the United States Supreme Court's current doctrinal decision with regard to facially deficient warrants, and what renders a warrant facially deficient.

TABLE OF AUTHORITIES

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PETITION FOR WRIT OF CERTIORARI

Now Comes Jordan Monroe with a pro se Motion for Writ of Certiorari, seeking relief from a decision rendered by the First Circuit Court of Appeals' decision Case No. 19-1869 and 19-1872 and from Case No. 1:16-CR-00055-PAS in the Rhode Island District Court.

On February 1, 2022, the Appellate Court for the First Circuit denied the Petitioner's Motion for Rehearing and En Banc, thus per Court Rules, 90 days from the denial is May 1, 2022, and therefore being filed before that date, this motion is timely and should be heard.

This issue is a Constitutional issue of a guaranteed right and is considered foundational to which cases have already been decided in favor of the Petitioner.

1.0 BACKGROUND:

On May 10, 2016, Agent James V. Richardson (Government Agent) procured what by all appearances is a facially deficient warrant which does not comply with the particularity clause of the Fourth Amendment, Rule 41(e)(2)(A) of the Fed Rules of Crim. Proc., and the doctrine of Groh v. Ramirez, 540 U.S. 551 (2004).

1.1 On May 12, 2016 Agent Richardson executed said warrant at the Petitioner's home, house, dwelling at approx 6:05 hours. Agent Richardson claimed that he had a search warrant for the premises, and the residents of the dwelling aquiesced to the search by Government Agents and local police.

1.2 After approx. 30 to 40 mins, Agent Richardson produced a single sheet of paper which he claimed was a search warrant. In displaying the warrant, Agent Richardson folded a part of the warrant over and covered the top portion of the warrant with his fingers so as to obscure the blank area of the warrant. When the Petitioner attempted to examine the warrant, Agent Richardson withdrew the warrant and placed it in the right rear pocket of this pants.

1.3. Incriminating evidence and statements were obtained from the Petitioner while law enforcement were in the Petitioner's home. Petitioner was transported to the Rhode Island State Police Headquarters, where interrogation continued. After some hours Petitioner was transported to Donald W. Wyatt Detention facility where he was held in pre-trial detention for 3 years.

2.0 The Petitioner's Federal Public Defender refused to give Discovery material to Petitioner while in pretrial detention and the Petitioner's then wife sent the Petitioner a copy of the single page of the warrant that was left at Petitioner's home. See (PEX1, May 10, 2016 Warrant). Petitioner then did some research and discovered that the warrant did not comply with the particularity clause of the Fourth Amendment per the holdding of Groh v. Ramirez, 540 U.S. 551 (2004), See (PEX4 Groh v. Ramirez), and subsequently engaged in heated debate with his Public Defendar over the warrant issue.

2.1 In October 2017, Petitioner notified Olin Thompson,

and the court that Mr. Thompson would be leaving the case due to his failure to effectively assist the Petitioner with his Fourth Amendment violation claim in Court.

In November 2017 a hearing was held in the District Court and when asked by the judge, why counsel was being replaced, the Petitioner made oral objection to the May 10, 2016 warrant (PEX1) and explained why he thought it to be invalid. The judge responded by saying "You're not a lawyer, you didn't go to law school, you don't know what you are talking about," and refused to examine the warrant.

2.2 Subsequently, CJA lawyer George J. West was assigned to the case to represent Petitioner.

Petitioner receiving Discovery from Mr. West and when he compared the warrant in the case file with that sent to him by his wife, Petitioner discovered that they were exact in content or lack thereof.

2.3 From January 2018 through December 2018, the Petitioner engaged in heated debates about the warrant and its validity and of the search of Petitioner's home on May 12, 2016. Mr. West's default argument was that he was only here to negotiate with the Government for the best terms he could acquire for a plea agreement. Mr. West stated on numerous occasions that as a CJA appointed lawyer he was only being paid $10,000 by the court and that that was not enough for him to put forth a full defense and that if the Petitioner could come up with the difference between the "10Gs" and his normal fee, he would see what he could do.

Mr. West also stated that he does not get paid until after sentencing, and that Petitioner needed to hurry up and sign the plea agreement.

2.4 On December 11, 2018 a hearing was held in the District Court where again the Petitioner objected to and challenged the warrant (PEX1) verbally in court.

Mr. West acknowledged verbally that (PEX1) was a "General Warrant," but that he had no interest in pursing the issue because the judge had already made it clear that he wanted a plea agreement on his desk by a certain date.

When Petitioner attempted to submit a motion to the court, challenging in writing the warrant, (PEX1), the judge stated that the Petitioner did not have the right to "Hybrid Defense," and that Petitioner had no right to submit the motion to the court.

The judge also stated that if Petitioner terminated Mr. West that he would have to proceed pro se at trial, as the court would not appoint another attorney.

2.5 Argument continued with Mr. West until May 2019 over the validity of the facially deficient warrant, and the merits of District Court's complying with the mandates of the Supreme Court.

In January of 2019, Petitioner mailed his motion to the court regarding the facially deficient warrant (PEX1), and no answer was forthcoming from the District Court.

From December 2018 through May 2019, Mr. West renewed his badgering about his stipend from the court and his insistence Petitioner pay the difference or sign the plea agreement, as he

already promised the judge an answer by now.

3.0 THE LAW:

3.1 Under the Unisted States Constitution's Supremacy Clause, the Constitution is the Supreme Law of the land, and it dictates in Article VI that "judges in every state shall be bound by . . . and that judicial officers both of the United States . . . shall be bound by oath on affirmation to support this Constitution (See PEX2 Hiearchy of Law)

Rule 41(e)(2)(A) of the Federal Rules of Crim Proc. (A) A Warrant to search for and seize a person or property. This rule unambigously states "a warrant must identify any person or property to be seized (See PEX3).

And under the Doctrine of GROH supra, (PEX4), the May 10, 2016 warrant (PEX1) is almost a carbon copy of the warrant in Groh, supra, and is thus believed to be facially deficient.

3.2 The May 10, 2016 warrant (PEX1) is believed to be facially deficient for the following reasons a listed in Groh.

1. The warrant did not list at all any items to be searched or seized on the face of the warrant.

1. The warrant did not incorporate by reference the itemized list or attachments described in the warrant application package.

3. The warrant did not incorporate any other supporting documents by reference.

4. The affidavit and other supporting documents (application package or attachments) were not attached to the warrant and did not accompany the warrant during the

search.

5. The warrant application,attachments and affidavits were filed under seal (See PEX5) and were thus unavailable to cure the facial deficiency of the warrant.

3.3 The Supreme Court stated in Groh that "the presumptive rule against warrantless searches who's only defect was a lack of particularity in the warrant." The uniformily applied rule is that a search conducted pursuant to a warrant that fails to conform to the particularity rquirement of the Federal Constitutions Fourth Amendments is unconstitutional." See also Stanford v. Texas, 379 US 486, 481, 485 (1965); Mass v. Shepard, 468 US 981, 988, FN.5 (1984), and with regard to particularity, Payton v. New York, 445 US 573, 585 (1980); Horton v. California, 496 US 128 (1990); Minnesota v. Carter, 525 US 83, 88 [2](1990); United States v. Moss, 936 F.3d 52, 59 (CA12019); United States v. Lafeyette Academy, 610 F.2d 1, 5 (1979); United States v.Guarino, 729 F.2d 864, 866-67(1984).

3.4 "Rule 41 of the Federal Rules of Criminal Procedure reflects the Fourth Amendments policy against unreasonable searches and seizures." See Zurcher v. Stanford Daily, 436 US 547, 558-559 (1978) HN 7.

Since under the rules mandate, Rule 41 has the force and effect of law, the government must adhere to it. See Rea v. United States, 350 US 214, 217 (1956)[2] ". . . Rules prescribed by this court and made effective after submission to Congress . . . [3]" The District Court was obliged to redress

the constitutional wrong done to the Petitioner by an abuse of the courts own process. (Obliged = Force or compell according to law) See also United States v. Werdone, 883 F.3d 204 (CA10 2015); Gouled v. United States, 255 US 298 (1921) 312-313" . . . It is the duty of the trial court to entertain an objection to their admission . . ." The Constitutional objection being renewed, the court should have inquired as to the origin of the possession of the papers when they were offered in evidence against the defendant; and Wise v.Henckel, 220 US 556, 558 (1911) and Mapp v. Ohio, 367 US 643 (1961); Trupiano v. United States, 334 US 699 (1998) 710". . . it was error to refuse the Petitioner motion to exclude and suppress the property which was improperly seized."

4.0 On no less than 3 occasions the Petitioner attempted to vindicate his Fourth Amendment guarantee in the District Court and was rejected by the court on each occasion. In Powell v. Alabama, 287 US 45,68 (1972) the Supreme Court stated that "notice and hearing are preliminary steps essentials to passing and enforceable judgement, and that they, together with legally competent tribunal having jurisdiction of the case, constitutes basic elements of the constitutional requirement of due process of law."

Where as here, the Petitioner has been denied opportunity to be heard and his procedural due process rights have been violated.

"Judgement without such citation and opportunity wants all the attributes of a judicial detemination; it is judicial

unsurpation and oppression, and never can be upheld where justice is justly administered."

4.1 Petitioner believes he has made a prima facie showing that Petitioners procedural due process rights have been violated and that this belief is supported by appropriate case law, and that the First Circuit Appellate Court's application of Tollet v. Henderson, 411 US 258, 267 (1973) is an erroneous applicaiton of law and is foreclosed by the decisions of the Supreme Court in Menna v. New York, 423 US 61, 62 FN.2(1975) where Tollet in FN2 was specifically and directly abrogated; and form the very foundation of the Menna Blackledge, doctrine; Class v. United States, 200 L.Ed.2d 37 (2018)[4][5] quoting Blackledge at 43 "the very initiation of the proceedings" and deprivation of hearing on the objection to the invalid warrant operated to further "deprive the Petitioner of his procedural due process." And in Garza v. Idaho, 203 L.Ed.2d 77 (2019)[6] "a valid and enforceable appeal waiver only preclude challenge that fall within its scope. And at FN4 "Criminal defedants in a Federal court have appellate rights under 18 USC §3742(a). See (PEX6)

As we see, as a matter of Black Letter Law, the Petitioner is entitled to an appeal further negating the First Circuit's application of Tollet.

4.2 When the constitutional issue being challenged, the Fourth Amendment violation, is seen as denial of due process of law. See Twining v. New Jersey, 211 US 78, 99 (1908) and in Powell v. Alabama, 287 US 45, 67-68 (1932) "it is not because

those rights are enumerated in the first eight amendments, but because they are of such nature that they are included in the conception of due process of law."

And in Collins v. Virginia, 201 L.Ed2d 9 (2018) "When it comes to the Fourth Amendments very core, is the right of a man to retreat into his own home and there be free from unreasonable government intrusion . . . physical entry of the home is the chief evil against which it is directed. The Fourth Amendment draws a fine line at the entrance to the house."

SUMMATION

For the reasons listed in the Petition, the Petitioner respectfully requests one of the following remedies from the Court:

1. Vacate and remand for further determination as to the validity of the warrant (PEX1).

2. The Court will declare the warrant invalid under the doctrine of Groh v. Ramirez, 540 US 551 (2004) vacate and remand for further proceedings.

3. Grant any relief as the court sees fit as the court is in a more superior position to decide what any other appropriate remedy could be.

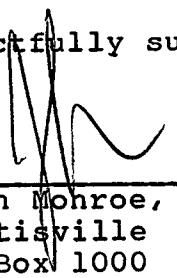
If the court determines that further proceedings within the Supreme Court are warranted, the Petitioner respectfully requests the appointment of counsel under the CJA act as the Petitioner is currently being held at FCI Otisvile and is indigent.

There are still outstanding issues beyond the validity of the warrant (PEX1) in this case, and keeping with the need for judicial expediency, the Petitioner moves to table these issues for the time being, as a favorable decision for the Petitioner in this threshold issue would essentially moot all subsequent issues, Petitoner is aware of the court's time constraints and is cognicient that presentation at this point knowing that they should become moot, feels that they could and or would become an unnecessary burden on the court.

Petitioner does respectfully request that if the court does not reach a favorable decision that the Petitioner be allowed to rebrief with the remaining issues.

Petitioner respectfully requests relief on this threshold Constitutional issue which is important as a Constitutional guarantee to all citizens of this nation, as the upending of the Fourth Amendment which is at the very heart of the Constitution were allowed to stand.

Respectfully submitted on this 19 day of March 2022.



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