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No. 20-20511 U.S. Court of Appeal 5th Cir

21-8211

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

FILED

MAY 18 2022

OFFICE OF THE CLERK
SUPREME COURT, U.S.

Richard Vincent Letizia

— PETITIONER

vs.

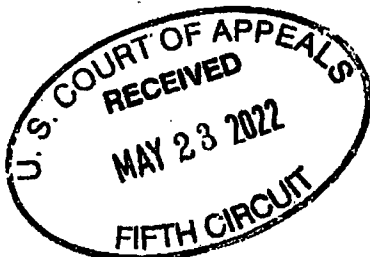
Bobby Lumpkin TX DOC DIRECTOR
AND

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE UNITED STATES COURT OF APPEAL FOR THE FIFTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI



Richard Vincent Letizia pro-se AC#K89277
Madison Correctional Institution
382 S.W. MCI Way Doern Gill20L
Madison Florida 33240

RECEIVED

JUN 22 2022

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTIONS PRESENTED

- 1). CAN the State of TEXAS GRANT extradition without first meeting their burden to confirm Petitioner's Identity? AFTER Petitioner, by live sworn testimony and sworn affidavit, squarely placed his Identity into a live dispute when the Florida GOVERNOR'S WARRANT CONTAINED "ALL" incorrect recitals, including an incorrect Identifying Picture, SOCIAL SECURITY number, previous addresses, AND AN incorrect Height, all pertaining to "MATCH SOME ONE OTHER THAN this Petitioner." [R.O.A. 20-20511. 268-270] SEE Appendix C;
- 2). Did the U.S. District Court S.D. TEXAS, deviate from this Honorable Court's holding in Michigan v. DORAN, 439 U.S. 292, 290, 99 S.Ct. 530, 535 58 L. 2d 521 (1978). ("A court considering release on Habeas Corpus can do NO MORE than decide (a) whether the Extradition documents on their face were in order, (b) whether the petitioner was charged with a crime in the demanding state, (c) whether the petitioner is named in the Request for Extradition, and (d) whether the petitioner is a fugitive")? [R.O.A. 20-20511. 269-270] SEE Appendix C and D;
- 3). Did the U.S. Fifth Circuit Court of Appeal misconstrue the Fourth Amendment and the Extradition Clause of the United States Constitution when it denied this petitioner his protected right to challenge the incorrect Extradition Documents that were NOT in order, pursuant to Michigan v. DORAN stated above? [R.O.A. 20-20511. 270] SEE Appendix A;
- 4). A. Did the U.S. Fifth Circuit Court of Appeal overlook the fact this Petitioner NEVER waived his protected right to challenge extradition, unlike Siegal, who in their supporting case of Siegal v. Edwards, 566 F.2d 958, 960 (5th Cir. 1978) used to deny petitioners Motion for leave to proceed in forma pauperis? [R.O.A. 20-20511. 452] SEE Appendix B.
B. IS Siegal v. Edwards, "inapplicable in this case at bar?"

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[X] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

- 1). *THE STATE OF TEXAS ATTORNEY GENERAL'S OFFICE.*
- 2). *THE STATE OF FLORIDA ATTORNEY GENERAL'S OFFICE.*
- 3). *THE STATE OF FLORIDA SECRETARY OF DEPARTMENT OF CORRECTIONS RICKY DICKSON*

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TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
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U.S. CONSTITUTIONAL PROVISIONS INVOLVED

Uniform Criminal Extradition Act (UCEA)
Adopted by TEXAS RULES OF CRIMINAL PROCEDURE

U.S. Constitution Amend. IV.

U.S. Constitution Art. 4 § 2c1.

U.S. Constitution Amend. V.

U.S. Constitution Amend. VI.

U.S. Constitution Amend. VIII.

U.S. Constitution Amend. XIV.

RULES GOVERNING SECTION 2254, ⁴⁰RULE 2 Advisory Committee Note Subdivision (b)(3)"

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☐ reported at _____; or,
☒ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

☒ reported at LEFRIA V. DAVIS, 2020 U.S. Dist LEXIS 127531 (S.D. Tex. July 20, 2020)
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☒ For cases from federal courts:

The date on which the United States Court of Appeals decided my case was JANUARY 25, 2022.

☐ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: FEBRUARY 22 2022, and a copy of the order denying rehearing appears at Appendix C.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from state courts:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Federal Extradition Procedure 18 U.S.C. § 3182

42 U.S.C. § 1983

28 U.S.C. § 2254(b)(ii)

CLAIMS

Claim #1:

Respondents failed to comply with procedural due process protected by the Federal Uniform Criminal EXTRADITION ACT (UEEA), and the Federal Extradition Statute 18 U.S.C. § 3182, when they deprived Petitioner his due process rights at his writ of habeas hearing;

Claim #2:

PETITIONER is NOT challenging his incarceration in Florida. PETITIONER, timely is SEEKING a RULING on the deprivation of his constitutional right to challenge the extradition procedure, with competent substantial evidence supporting the Florida Governor's WARRANT on its face was invalid, pertaining to someone other than this PETITIONER. The Florida Governor's WARRANT was invalid, making the Petitioner's extradition unlawful,

Claim #3:

Pursuant to Federal Rules Governing Section 2254 Rule 2 Advisory Committee Notes Subdivision (b) (3) "The applicant is in custody in any other manner differing from (1) and (2) above due to the effects of the state action he seeks relief from." The named Respondent should be the Attorney General of the state wherein such action was taken. That would be the Attorney General of the State of Texas. SEE U.S.D.C. S.D. DIST. TEXAS MEMORANDUM AND Recommendation Richard Vincent Letwin v. Lori Davis Appendix B.

STATEMENT OF THE CASE

- 1) . On July 6, 2016, PETITIONER, was arrested as an alleged fugitive from the State of Florida, in Houston Texas, by Harris County Tx. Sheriff Dept. PETITIONER, "Refused to Sign a waiver" of his Extradition Rights, believing his arrest was a mistake, [R.O.A. 20-20511. 195-196]
- 2) . September 20, 2016, The Florida Governor's Warrant was Entered into States Evidence as Prima facie evidence to grant extradition. However, said Governor's Warrant recitals were All pertaining to a different person other than this Petitioner, [R.O.A. 20-20511. 268-270]
- 3) . September 20, 2016, Petitioner submitted his sworn affidavit claiming that he "Is Not" the person in the Governor's Warrant Documents, [R.O.A. 20-20511. 79-80]
- 4) . October 04, 2016, in Harris County Tx. Criminal Court, the trial court, and State of Texas Prosecutor's [acknowledged] the incorrect recitals and identifying documents, confirming that PETITIONER was not the same person requested in the Florida Governor's Warrant, [R.O.A. 20-20511. 268-270] after Petitioner's sworn live testimony that Petitioner was not the same person identified in Florida Governor's Warrant identifying recitals. The record reflects the Respondents failed to Refute Petitioner's claim. [R.O.A. 20-20511. 195-197, 268-270] The record on Appeal remains silent that Respondents confirmed Petitioner's Identity, SEE APPENDIX C
- 5) . February 2019, The State of Texas Criminal Court of Appeal, affirmed the Harris County Tx. Court decision. See Ex parte Letizia, No. 01-16-00808-CR-2019 WL 610719 (Tex. App-Houston [1st Dist.] Feb. 2019), [R.O.A. 20-20211. 453] APPENDIX B
- 6) . July 23, 2019, Petitioner, timely filed his U.S.C 28 § 2254 in the U.S. Dist. Court for the Southern District of Texas at Houston, Case No 19-CV-0283, [R.O.A. 20-20511. 452-454] APPENDIX B
- 7) . July 30, 2019, PETITIONER, was unlawfully extradited to the custody of the State of Florida, [R.O.A. 20-20511. 452-454] "Kidnapped" by the State of Texas.

- 8). JUNE 26, 2020, U.S. Magistrate Peter Reay for the U.S. Dist. Court S.D. of Texas in Error, granted Respondents motion for summary Judgment. Respondents moved the U.S. dist court to dismiss the State of Texas Attorney Generals office as the primary Respondent based on Rule 2(a) of the Rules Governing Section 2254 Cases (D.E. 16 case # H-19-2834). Because the petitioner was in the custody of the State of Texas in the Harris County Tx. jail when he filed his petition of 28 U.S.C. § 2254. The U.S. magistrate misconstrued that the Harris County District Attorney's Office as the proper Respondent for further proceedings in this case. The magistrate judge in Error, overlooked the fact that the State of Texas Criminal Court of Appeal CASE No. 01-16-00808-CR, 2019 WL 610719 (Tex. App. - Houston [1st dist.] Feb. 2019 pet REFFERED) Ex parte Richard Vincent Letzin, affirmed the Harris County TX court decision, and Rule 2 of the Rules governing 2254 Advisory Committee Notes subdivision (b)(3) state the Respondent shall be in the state wherein such action was taken. [R.O.A. 20-20511. 452-454] Appendix B Thus, confirming the State of Texas Attorney General should be named as the primary Respondent in this case and summary judgment was inapplicable in this case at bar. SEE Rule 2 Rules governing § 2254 committee Notes
- 9). July 23, 2020 Petitioner timely filed his objections, [D.E. 21 case # H-19-2834 (S.D. TEXAS U.S.D.C.)] [R.O.A. 20-20511. 469] Appendix B
- 10). July 20, 2020, U.S. District Court Judge denied writ of Habeas Corpus by "order of adoption," [R.O.A. 20-20511. 469] APPENDIX B
- 11). July 20, 2020, U.S. District Court Final Judgment [R.O.A. 20-20511. 470] APPENDIX B
- 12). JANUARY 25, 2022, U.S. Court of Appeal 5th Circuit denied Petitioner's Motion for LEAVE to Proceed in forma pauperis Appendix A
- 13). FEBRUARY 22, 2022, U.S. Court of Appeal 5th Circuit denied Petitioner's Motion for Rehearing for LEAVE to Proceed in forma pauperis Appendix A

REASONS FOR GRANTING THE PETITION

This Honorable Court has held "A court considering release on habeas can do no more than decide (a) whether the extradition documents on their face were in order," Michigan v. Doran, 439 U.S. 292, 290 99 S.Ct. 520 535 581-521 (1978). These were historic facts readily available. Yet the record remains silent that the State of Texas properly met their burden to confirm this Petitioner's "Identity," once Petitioner, placed identity into live dispute. There is clear reflection in the October 04, 2016, Writ of Habeas Corpus Hearing Transcript, attached as Appendix D, [R.O.A. 20-20511. 268-270] that this Respondent was never identified by the court, after the court conceded that the Governor's Warrant contained an incorrect identifying photo, incorrect social security number, incorrect height and previous addresses, all pertaining to a different person, not this Petitioner. All records were invalid. If the Florida Governor's Warrant is invalid, the extradition was unlawful.

The Respondents violated State and Federal Extradition Statutes. By ignoring established extradition procedures and due process, in doing so, they unlawfully kidnapped this Petitioner. The Uniform Criminal Extradition Act and Federal Extradition Statute 18 U.S.C. § 3102, have specific procedural due process guidelines and the Fourth Amendment of the United States Constitution protected this Petitioner, stating a warrant must be "specific," identifying the correct person that the warrant was issued for. The Harris County Tx. Court and State of Texas prosecutors were obligated to verify the documents before granting extradition and they failed their duty of care. [R.O.A. 20-20511. 195-197. 268-270] The record on appeal remains silent of confirmation.

Petitioner is seeking to challenge the incorrect documents contained in the Florida Governor's Warrant, a right protected by our constitution, the Uniform Criminal Extradition Act and 18 U.S.C. § 3102. A U.S. Constitutional right the Respondents knowingly deprived Petitioner of. [R.O.A. 20-20511. 268-270] In Richard Vincent Letizia v. Lori Davis 2020 U.S. DIST LEXIS 127531 (S.D. Tex. July 2020), the District Court in error, denied Petitioner's

writ of habeas corpus, supporting their decision, using the 5th Circuit Court of Appeal holding in Siegal v. Edwards, 566 F. 2d 958 960 (5th Cir. 1978). In Siegal v. Edwards, Siegal alleged his governor's warrant documents were rubber stamped and incorrect. The 5th Circuit Court correctly denied Siegal's petition, finding Siegal voluntarily waived his extradition rights and was returned to Louisiana based on his waiver, not his governor's warrant [R.O.A. 20-20511. 453]. Thus, determining no relief could be granted.

It is well established that a detainee awaiting extradition has a Federal right to challenge his extradition by a pre-transfer petition for a writ of habeas corpus. See Roberts v. Reilly, 116 U.S. 80, 94-95 S.Ct 29 L.Ed 544 (1885). See Crumely v. Sneed, 620 F. 2d 481 (5th Cir. 1980) (recognizing that individuals have a federal right to challenge their extradition by writ of habeas corpus citing Roberts v. Reilly supra). In Crumely v. Sneed, the 5th Circuit Court of Appeal reversed the district court's summary judgment and noted that "the right to an extradition hearing was secured by the U.S. Constitution and any denial of this right gave rise to a cause of action." Petitioner timely challenged all the documents contained in the Florida Governor's warrant by sworn affidavit, [R.O.A. 20-20511. 79-80] and sworn live testimony [R.O.A. 20-20511. 268-270] Appendix C in the State of Texas, in Harris County Tx. Court and State of Texas Court of Criminal Appeal, stating petitioner was not the person described in the Florida Governor's warrant, because the governor's warrant identifying picture, social security number, height and previous addresses matched someone other than this petitioner. The Record on Appeal supports the respondents' never refuted petitioner's claim that he was not the person requested in the Florida Governor's warrant recitals. This Superior Court continues to hold that an extradition court can do no more than decide whether the documents on their face were in order. Michigan v. Doran supra

THERE is no dispute offered by the State of Texas that the the Florida Governor's WARRANT pertained to this Petitioner. This Governor's WARRANT WAS ENTERED AS PRIMA FACIE EVIDENCE by the State of TEXAS October 04, 2016, [R.O.A. 20-20511, 267-268] as States Evidence Exhibit 1. However, States Evidence Exhibit 1 completely supports the identity of someone other than this Petitioner, confirming the State of Texas in Error, Granted Extradition without meeting their burden to confirm Petitioner's identity, once Petitioner placed identity AS A live dispute. [R.O.A. 20-20511, 416] Appendix C and Appendix D.

Petitioner is NOT challenging his incarceration in the State of Florida in this case. However, Petitioner is seeking his constitutionally protected right to challenge the Governor's WARRANT documents and a Ruling on his deprived rights.

CONCLUSION

Pursuant to this Court's holding in *Michigan v. Doran*, and 5th Circuit Court of Appeal decision in *Crumely v. Sneed supra*, Petitioner humbly Request that:

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Richard Vincent Letizia

Date: May 18, 2022