

IN THE SUPREME COURT OF THE UNITED STATES
WASHINGTON, DC

ROSA SERRANO,
PETITIONER,

V.

HON. ARAN D. ALBRIGHT,
RESPONDENT

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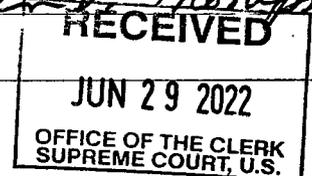
21A578

Motion to Stay Execution of Conviction of Medicaid
Fraud

Comes Now, Petitioner ("Serrano") and files this motion to stay further execution of conviction of Medicaid Fraud for the reasons stated herein:

In Habeas Corpus

Where Petitioner executed an application for habeas corpus on or about May 15, 2017 in EP 17-CV-221-FM to issue release from custody of void contempt orders in state proceedings 2012 DVCV 06341 and 2013 DVCV 3139, however district court ruled contrary to state statute, denial of due process, incorrect determination of the facts and denial of Sixth Amendment right to appellate counsel under *Coleman v. Thompson*, 115 Ct 2546 (1991).



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Again, reminding the court of the removal of state court criminal proceedings in 2017000317 under 28 USC 1443, when criminal prosecution of void contempt orders in 2012 DEU06341 and 2013 DEU3139 was indicted under 2017000316 for felony theft of real property. wherein, Petitioner filed notice of removal under 42 USC 2000h-1. Because criminal contempt was prosecuted, felony prosecution did not bolster for permission for a felony conviction of the same identical conduct in the criminal contempt orders. Therein, removal was warranted, however dismissed of 2017000316 was done and re-filed in 20170003617, Petitioner was regardless entitled to federal jurisdiction under 42 USC 1396c (Medicaid Act) and 1396v-2 (Medicaid - Operation of Medicaid). And conclusive when a FCA (False Claims Act) exists under 21 USC 3729, where a Whistle Blower Act is a protected activity under 31 USC 3730 (h). Unrequered to federal jurisdiction of all the claims presented by Petitioner result under removal 42 USC 1443 for relief from prosecution. Yet removal of 2017000317 was done to EP-17-cv-221-Fm habeas corpus petition when denied of a civil rights claim. Ultimately, the same question arises as to a valid conviction cannot be procured when state court was divested of jurisdiction under the Supremacy Clause of the Constitution. Therefore, a void conviction, it should be stayed. Plus without a motion for remand

by prosecuting attorney, if denied federal district court to issue a writ ~~order~~ order to dismiss removal of criminal proceeding in 20170200317. Beyond the 30-day permitted under 8 USC 1447(c), if grants a stay to execution of the conviction of Medicaid Fraud. Petition seeks relief, even though a habeas remains in the 5th Circuit (~~21-50889~~) (~~21-50889~~) (21-50889), when undisputed that relief is automatic of W-19-CA-414-ADA to grant release. Further delay and execution of appeal of habeas in 21-50889 is done purposefully to deny due process. The issue presented multiple times in 19-17-CA-221-Fm and W-19-CA-414-ADA, and civil rights claim in W-19-CA-163-ADA and W-19-CA-336-ADA further progresses to receive relief from conviction. Without any relevant reason to uphold a state conviction unless while removed is solely to proscribe denial of due process when 14th Amendment guarantees such safeguard. Nonetheless ignored when Petitioner repeatedly sought relief when both habeas petitions were pending. Invariably, the same issue remains, where a court without guidance can render a valid conviction still affirmatively remains of void conviction to hold Petitioner. Thus, a stay is needed to further prevent the need to file a habeas action in this Court, and delay further release of Petitioner. After 5 years and 10 months of awaiting for relief from the courts, Petitioner 2023

Remains detained on a void convict.

II. Contempt Orders

The contempt orders issued on February 07, 2017 and March 06, 2017 ~~were~~ (without hearing of latter date) were orders declared void by ~~functus officio~~ when due process was denied. Therefore, trial court held all previous hearings of June 17, 2015, September 15, 2016 and September 16, 2016 as trial for all ~~pre~~ previous hearings, instead of conduct occurring after a ~~valid~~ valid judgment, which does not exist. As a matter of law 20120806341 cannot hold a contempt order when of limited capacity, it does not impose any other underlying claim between the parties. Tex. Gov't Code 57.903

"Section 57.903 limits the trial court's determination or instrument is fraudulent as defined by section 57.901. Tex. Gov't Code Ann. §57.903(a), (g)." David Powers Horner v. M.L. Rendleman Co., 355 SW3d 327, 337 (Tex. App. - Houston [1st Dist.] 2011).

"The court may not rule on the validity of the underlying lien itself or claim between the parties." In re Purported Liens or Claims Against Samshi Homes, L.L.C., 321 SW3d 665, 667 (Tex. App. - Houston [14th Dist.] 2010, not pet.); Id.

"... to the limited nature of the decision, the statute [Section 51.903] was intended to address not the validity of the purported lien or interest in the property but the legitimacy of the document manifesting the purported lien or interest. Thus, the court is not adjudicated whether the lien or interest is legitimate but only whether the documents are." In re Hort, No. 07-98-0292-CV, WL 225976 at *2 (Tex. App. Amarillo April 15, ~~1999~~ 1999, no pet.)

Because the contempt order cannot exist in 2012DCV 06341, federal district court in EP-17-CV-2215M incorrectly determined of the facts that section 51.903 could entertain a contempt order. Much less any injunctive relief to issue a TRO to stop foreclosure sale of lien interest granted under ~~granted~~ section 51.903 on August 27, 2014. Thus, rendering the contempt order void, when the contempt order states both civil proceedings in 2012DCV 06341 and 2013DCV 3139. Where no contempt proceeding can be held in 2012DCV 06341, the contempt order in 2013DCV 3139 also became void. The 2013DCV 3139 was a compulsory counterclaim (plaintiff) to foreclose on its security interest. The foreclosure is permitted under Tex. Property Code 53.162 (a)-(b). Wherein, the compulsory counterclaim allowed to foreclose on the security interest previously vacated, and then revived security interest (lien),

"claimant may foreclose on the lien." Because the vacated lien was revived when trial court granted a constitutional lien under Tex. Const. art. 16 sec. 37. Thereupon, the lien revived bestowed a right to foreclose on its security interest. Upon performing the foreclosure, Petitioner non-suited all parties of its compulsory counterclaim.

"... because the provisions of Chapter 53 of the Property Code cannot be used to alter or modify the rights created under Article 16, section 37 of the Texas Constitution." Trinity Duprall Systems, LLC v. TOKA General Contractors, L.T.O. and Vineyard Village, MSU, LLC, 416 SW 3d 201, 209 (Tex. App. - El Paso, 2013)

Conclusive, that foreclosure ~~occurred~~ occurred without a TRW in 2013 DCV 3139, compulsory counterclaim, the foreclosure sale went unrestrained. Remarkably, all these proceedings were held void when the court reporter's record was lost, and a new trial was denied by the 8th District Court of Appeals for Texas (COA) when the mandamus could not be conclusive where the record was lost. Furthermore, the contempt hearings held on June 17, 2015, September 18, 2015 and September 16, 2016 were declared void by the loss of the court reporter's record, and without a new trial, the contempt order regardless became void. All these issues are had

to be raised when ~~EP-17-CV-221-Fm~~ dealt with contempt orders, solely, not the removal. The remand requires a certified copy of the order to remand. This still remains unfiled by district court, in other words the removed proceeding 2017000317 remains in federal court without a cause number assigned, when a habeas action cannot entertain a civil rights claim. This has been explored by this Court continuously on habeas action and a civil rights claim differentiate differentiate contrary to one another. Because the conviction was wrongly entered, ~~EP-17-221~~ EP-17-CV-221-Fm did not institute a removed proceeding under 28 USC 1443 to habeas action. *Preiser v. Rodriguez*, 93 S Ct 1827, rule prescribes the distinguishable characteristics of habeas and a civil rights claim, neither can be interchangeable or intertwined to offer relief instead of the other proceeding. Each stands alone to which effect can only be resolved upon a separate claim, concisely a civil rights claims acts to discern the damages arising of constitutional violations by state courts, while a federal habeas, requires review of state court judgment of a criminal conviction did not incur a constitutional violation. The difference has long been defined by this Court, further explanation is unnecessary. Ultimately, the contempt orders were rendered void regardless more compelling when respondent Sheriff Richard Wiles

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Response to habeas in 18-17-CV-221-Fm and motion to dismiss, admitted no reason existed to arrest Petitioner, but the state conviction in 2017000317 granted the detention valid to credit Petitioner for time held in custody. However, Petitioner had a bond and was released on July 12, 2017 without a hearing, although did not fail to appear nor acquired another felony to violate bond provisions. Thus, the captivity of Petitioner was unmerited, and was denied due process. The 8th COA (08-17-00190CR) completely disavows the incarceration of Petitioner by stating, no incarceration took place although the judgment of conviction entered on August 14, 2017 and nunc pro tunc order both show incarceration dates, the 8th COA acknowledges due process was given because incarceration was not done, however where the judgment of conviction shows incarceration then due process was denied, and the conviction is void. More precluding the original state habeas corpus in contempt orders for the wrongful incarceration, which credited to detention to the removed proceeding in 2017000317 is still pending. No mandate was issued in 08-17-00044CV, and Petitioner requested release, from custody when highlighting the obvious error in 08-17-00190CR, and by the lack of appellate counsel under Coleman, supra, disposes of the controversy to grant relief. Yet, the 8th COA ignores any request by motions to recall of mandate,

although never issued, to issue habeas relief. Petitioner also requested a *nunc pro tunc* order to correct detention dates of Petitioner of the contempt order which were applied to 2017000317. The motion was denied one-year later in 08-17-00044CV ^(108-17-00190CE). However, the *nunc pro tunc* order was granted to Petitioner by trial court on or about March 2022 to correct the dates of ~~deten~~ detention, which SCFO (State Counselors for Offenders) ⁽²⁰¹⁷⁰⁰⁰³¹⁷⁾ granted assistance to correct the error. Because a state remedy exists but is prejudicially denied, Petitioner has exhausted all lower court relief.

III Stay

Petitioner sought a stay in federal district court in W-19-CA-414-ADA to determine the mandamus petition in the 5th Circuit (21-50430), which a writ of ~~certiorari~~ ^{certiorari} is pending in 21A578 in this Court. Effectively, Petitioner exhausted all stays in lower courts, all lower courts denied any stays and release of Petitioner. Petitioner, therefore, seeks a stay from this Court. Because a habeas action is pending in 21-50889, and issue relatively easy to discern, Petitioner is prejudiced.

IV Exhibits

Petitioner submitted exhibits to support removal of state proceeding which rendered a void judgment or conviction.

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Petitioner requests the exhibits submitted in the writ of certiorari be incorporated in this motion to stay.

PRAYER

Wherefore Premises Considered, Petitioner prays for the relief as stated:

1- Release of Petitioner while a decision of writ of certiorari is pending;

2- A stay of the judgment of conviction in 2017000317 is granted;

3- Such stay remains in effect regardless of disposition of 21A 578 and 21A 579;

4- Stay remains in effect after disposition 21-50889;

5- Stay remains in effect while a writ of certiorari of 21-50889, if necessary, is disposed;

6- Instruct the US Marshalls to take custody of Petitioner and release to be issued by Texas Western District Court Austin division, where remand and reassignment was requested under 28 USC 2106;

- 7- Stay is requested under Rule 23 - Supreme Court Stays (1) and (2). § and 28 USC § 2101 (E);
- 8- Stay remains in effect apart from any other writ of certiorari until the US Attorney's Office instructs Petitioner's claim under FCA 31 USC 3729;
- 9- Stay remains in effect until designation by US Attorney declares a protected activity under the Whistleblower Act 31 USC 3730(h) is assigned;
- 10- Stay remains in effect until quia form is filed by Petitioner along with US Attorney;
- 11- Stay also is granted of any further prosecution of criminal contempt orders in any subsequent prosecution to real property in controversy in 2012 DCU06341 and 2013 DCU13137;
- 12- Stay remains in effect of any prosecution to real property, and upon obtaining a declaratory judgment;
- 13- Stay remains in effect to any fines, contempt action and criminal prosecution of real property; and for any other relief entitled to Petitioner;

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Submitted on this day June 19th 2022.



Rosa Serrano 2151723

1400 Industrial Blvd

Rockhart, TX 78644

Certificate of Service

On this day 19th of June 2022 sent notice to Respondent at: Hon. Alan D. Albright, 800 Franklin Ave, Waco, TX 76701.



Rosa Serrano