

22-5343

IN THE SUPREME COURT OF THE UNITED STATES

In re: Quelyory A. Rigal,
In Propria Persona, Petitioner

ON PETITION FOR WRIT OF HABEAS CORPUS TO
ELEVENTH CIRCUIT COURT OF APPEALS (0:12-cr-60088-WPD, 13-14841-A USCA, 17-
13068-CC, 17-CV-61953-WJZ, 19-13219-K USCA)

PETITION FOR WRIT OF HABEAS CORPUS

FILED
AUG 03 2022

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUELYORY A. RIGAL – PETITIONER

Vs.

UNITED STATES OF AMERICA – RESPONDENT

In Care of:

19800 Northwest 47th Place; Miami Gardens,
Florida Real Land [33055]

786-657-2608

Phone Number

In Propria Persona Proceeding in Sui Juris capacity

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ISSUES PRESENTED FOR REVIEW

1. Whether a non-unanimous verdict in C.D.FL. # 0:12-cr-60088-WPD, in violation of the Fifth Amendment and Sixth Amendment, is plain error, reversible error, and manifest miscarriage of justice warranting the requested habeas corpus relief.
2. Whether a duplicitous indictment on all Counts (1, 2, 5, 11,12) of C.D.FL. # 0:12-cr-60088-WPD, in violation of the Fifth Amendment and Sixth Amendment, is plain error, reversible error, and manifest miscarriage of justice warranting the requested habeas corpus relief.
3. Under the united States Constitution, Rigal, a common citizen defendant, has the right to due process, an impartial jury, a speedy trial, informed of the nature of the accusations, a compulsory process for obtaining witnesses in her favor, effective assistance of counsel, nor excessive fines imposed, nor cruel and unusual punishments inflicted. Rigal's constitutional rights have been violated in the name of judicially fashioned codes. Is the united States Constitution still in force and valid?

See *Heck v. Humphrey*, 512 U.S. 477, at 482 (1994) – establishing the basis for the damages claim necessarily demonstrates the invalidity of the conviction.

LIST OF PARTIES AND CORPORATE DISCLOSURE STATEMENT

The parties are:

Quelyory A. Rigal;

UNITED STATES OF AMERICA;

UNITED STATES DEPARTMENT OF JUSTICE;

UNITED STATES ATTORNEY'S OFFICE;

FEDERAL BUREAU OF PRISONS;

INTERNAL REVENUE SERVICE;

UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT;

UNITED STATES PROBATION OFFICE;

Albin Calixte, Probation Officer;

Joslyn Wilkerson, Acting Chief U.S. Probation;

Merrick B. Garland, United States Attorney General.

Allen, Wilfredo Oscar, Esq.

Caruso, Michael, Federal Public Defender

Contrywide Home loans, Inc. Acquired by Bank of America (BAC)

Dimitrouleas, Hon. William O., United States District Judge

Fannie Mae Loan servicing (FNMA)

Federal Deposit Insurance Corporation (FDIC)

Fernandez, Luis, Esp.

Ferrer, Wifredo A. Former United States Attorney

Freddie Mac Loan Services (FMCC)

Gailey, James Robert, Esq.

Golembe, Stephen J., Esq.

Greenberg, Benjamin G., Former United States Attorney

Gregorie, Richard, Assistant United States Attorney

Hunt, Hon. Patrick M., United States Magistrate Judge

Kefalinas, Julia, Esq.
Klugh, Ricahrd Carroll, Jr, Esq.
Kreiss, Jason Wyatt, Esq.
Lanigan Thomas, Assistant United States Attorney
Lopez, Bernardo, Assistant Federal Public defender
Lopez-Romo, Francisco Miguel, Esq.
Onore, Todd Alan, Esq.
O'Sullivan, Hon. John J., United States Magistrate Judge
Petruzzi, Paul Domenic, Esq.
Recoba Raul C., Esq.
Rodriguez, Hugo A., Esq.
Rosenbaum, Hon. Robin S., United States Magistrate Judge
Seltzer, Hon. Barry Seltzer, United States Magistrate Judge
Smachetti, Emily M., Assistant United States Attorney
Smith, Michael Gary, Esq. Snow, Hon. Lurana S., United States Magistrate Judge
Solicitor General of the United
Trachman, Robert H., Esq.
Trivedi, Erick, Esq.
United States of America, Plaintiff
White, Hon. Patrick A., United States Magistrate Judge
Williams, Hon. Kathleen M., United States District Judge
Zloch, Hon. William J., United States District Judge

Petitioner has no corporate interests to disclose.

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APPENDIX C Order by Hon. District Judge William P. Dimitrouleas, calling me a rat or "mouse."

APPENDIX D Petition for writ of Habeas Corpus under 28 U.S.C. 2241

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CASES INVOLVED

1. Case No: 0:12-cr-60088-WPD *United States v. QUELYORY A. RIGAL*, Entry of Judgment: October 15, 2013. District Court Southern District of Florida.
2. Case No: 13-14841-A USCA *QUELYORY A. RIGAL v. UNITED STATES*, Entry of Judgment: February 3rd 2016. Eleventh Circuit Appeal Court.
3. Case No. 17-CV-61953-WJZ *QUELYORY A. RIGAL v. UNITED STATES*, Entry of Judgment: August 13, 2019. District Court Southern District of Florida.
4. Case No: 17-13068-CC *QUELYORY A. RIGAL v. UNITED STATES*, Entry of Judgment: August 30, 2018. Eleventh Circuit Appeal Court.
5. Case No: 19-13219-K USCA *QUELYORY A. RIGAL v. UNITED STATES*, Entry of Judgment: December 27, 2019. Eleventh Circuit Appeal Court.
6. Case No. 22-60180-CV-DIMITROULEAS *QUELYORY A. RIGAL v. UNITED STATES*, Entry of Judgment: January 28, 2022. District Court Southern District of Florida.

PROCEDURES AND ORDERS BELOW

1. Following sentencing, retained counsel moved for leave to allow Ms. Rigal to appeal in forma pauperis and to have appellate counsel appointed Mr. Richard Klugh to represent her. The court granted the motion and appointed Mr. Richard Klugh to represent her in the appeal. Filed an appeal to the Eleventh Circuit Court Case No. 13-14841-A USCA on November 15, 2015. Ms. Rigal's conviction and sentence were affirmed on appeal. The Entry of Judgment for this Appeal was on February 3rd, 2016.
2. On April 25, 2016, Ms. Rigal filed a motion for a new trial by and through counsel Richard Klugh. The motion was based on newly discovered evidence demonstrating the Government's violation of *Brady v. Maryland*, 3737 U.S. 83 (1963) and *Giglio v. United States*, 405 U.S 150 (1972). Following an evidentiary hearing, the District Court denied the motion for a new trial.
3. On July 16, 2018, Ms. Rigal appealed Eleventh Circuit of Appeal case Number 17-13068-CC, and on appeal, the court of appeals affirmed the denial. The Entry of Judgment for this Appeal was on August 30, 2018.
4. On October 3, 2017, Ms. Rigal, through counsel, filed a motion pursuant to 28 U.S.C 2255, Case No. 17-CV-61953-WJZ, raising the following grounds for relief: 1.) ineffective assistance of sentencing and appellate counsel in failing to resolve factual inadequacies in the Government's loss calculation for sentencing. 2.) Failure to disclose material exculpatory evidence in violation of *Brady* and *Giglio*. Counsel for both parties filed a joint status report. The status report included a stipulated resolution to the 28 U.S.C 2255 motion. Specifically, as to issue one raised in the 28 U.S.C 2255 motion, the parties stipulated that a proper calculation of loss at the time of Ms. Rigal's initial sentencing would have brought the total amount of sentencing below the \$ 7 million thresholds under U.S.S.G 2B1.1 (b)(1)(K) of the sentencing guidelines applicable at the time of her initial sentencing. As to issue two, the parties stipulated that Ms. Rigal agreed to withdraw that issue.
5. Based on the parties stipulation, the Magistrate Judge issued a report and recommendations. Specifically, the Magistrate Judge recommends that Ms. Rigal's 28 U.S.C 2255 motion be Granted as to issue one that she should be resentenced with the advisory range of 135 to 168 months. As to issue two, the Magistrate Judge recommended that the motion be denied with prejudice.

Judge Zloch adopted the report and recommendations of the Magistrate Judge and ordered that Ms. Rigal's sentence 'will be vacated, and the court will resentence Ms. Rigal to a term of imprisonment, considering the correct sentencing range based on the correct calculation of her loss amount.

6. On July 1, 2019, Judge Zloch issued an order of recusal, and the matter was reassigned to a different district court judge for resentencing. The parties agreed that Ms. Rigal would be resented with the new advisory range. Before sentencing counsel, Ms. Rigal filed a sentencing memorandum and a request for a downward variance. The Government filed an opposition to the request. At the sentencing, Judge William P. Dimitrouleas denied the request for a downward variance and sentenced Ms. Rigal to 156-months of terms of imprisonment. The Entry of Judgment for this resentence was on August 13, 2019. See **APPENDIX A**.

7. On December 27, 2019, Ms. Rigal's counsel appealed the resentence disparity to the Eleventh Court of Appeals 19-13219-K USCA. The Entry of Judgment for this Appeal was on April 13, 2020.

8. In March 2020, The Cares Act qualified to Ms. Rigal for home confinement, where she was with excellent conduct. On August 17th, 2020, Ms. Rigal filed to the District Court C.D.FL. # 0:12-cr-60088-WPD an Emergency Motion for Reduction in Term of Imprisonment under 18 U.S.C 3585 (C)(1)(a)(1) Amended by The First Step Act. See **APPENDIX B**. On August 21, 2020, the Judge dismissed and alternatively denied the motion using disrespectful language, calling her "rat" or "mouse." See **APPENDIX C**.

9. On Petitioner filed 28 U.S.C. § 2241 Petition C.D. FL Case No. 22-cv-60180-CV-DIMITROULEAS on January 25, 2022, See **APPENDIX D**. The Entry of Judgment for this § 2241 Appeal was on January 28, 2022. See **APPENDIX E – ORDER DENYING CERTIFICATE OF APPEALABILITY** (7 pages).

REASONS FOR NOT MAKING APPLICATION TO THE DISTRICT COURT

1. In accordance with 28 U.S.C. §§ 2241, 2242, Petitioner has made application to the district court of the district in which the Petitioner is held. See Case No: 0:12-cr-60088-WPD, Case No. 17-CV-61953-WJZ, and Case No. 22-cv-60180-CV-DIMITROULEAS, Eleventh Circuit Appeal 0:12-cr-60088-WPD, 13-14841-A USCA, 17-13068-CC, 19-13219-K USCA.
2. Relative to the issues presented in this Petition, the foregoing proceedings in the District Court and Circuit Court have shown to be inadequate and ineffective for providing an expeditious habeas corpus remedy as intended by Congress. See *United States v. Hayman*, 342 U.S. 205, at 206-207 (1952) - Congress enacted § 2255 in 1948 as an alternative to the § 2241 writ of habeas corpus. The remedy is intended to be as broad as habeas corpus and “provide an expeditious remedy for correcting erroneous sentences without resort to habeas corpus.” *Id.* at 218. The “Savings Clause” provision (§ 2255(e)) allows federal courts to grant writs of habeas corpus to federal prisoners pursuant to § 2241 when § 2255 is inadequate or ineffective to test the legality of detention. See 28 U.S.C. § 2255. See *Hayman*, at 209-210, 219, 223 – when § 2255 procedure is inadequate and ineffective, it precludes resort to habeas corpus and amounts to an unconstitutional “suspension” of the writ of habeas corpus. See *Hernandez v. Campbell*, 204 F.3d 861, at 864-865 (9th Cir. 2000).

JURISDICTION

1. The habeas corpus jurisdiction of the Supreme Court is pursuant to 28 U.S.C. §§ 2241, 2255. Also, Original jurisdiction is pursuant to the Constitution Article III, Section 2, Clause 1; 28 U.S.C. § 1251; Judiciary Act of 1789; and Supreme Court Rule (S. Ct. R.) 17. Moreover, the Supreme Court has jurisdiction pursuant to Federal Rules of Appellate Procedure (Fed. R. App. P.) 23(b), (d), and S. Ct. R. 36.3(a), 36.4.
2. This Petition For Habeas Corpus is in aid of the Supreme Court's appellate jurisdiction, which includes the Supreme Court's exercise of its general supervisory control over the federal court system. See *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 147 (1803) – the term ““ appellate jurisdiction’ is to be taken in its larger sense and implies in its nature the right of superintending the inferior tribunals.” See *Connor v. Coleman*, 440 U.S. 612, 624 (1979) – when a lower federal court refuses to give effect to or misconstrues the mandate of the Supreme Court, its action may be controlled by the Supreme Court.
3. The authority of the appellate court “is not confined to the issuance of writs in aid of jurisdiction already acquired by appeal but extends to those cases which are within its appellate jurisdiction although no appeal has been perfected.” See *FTC v. Dean Foods Co.*, 384 U.S. 597 (1966) (quoting *Roche v. Evaporated Milk Ass'n*, 319 U.S. 21, 25 (1943)). This authority extends to support an ultimate power to review, although not immediately and directly involved. See *United States v. United States District Court*, 334 U.S. 258, 263 (1948). See S. Ct. R. 11, 17.1, 20.1. See 28 U.S.C. § 2101(e).
4. The Supreme Court also has jurisdiction pursuant to the United Nations Charter (59 Stat. 1046 – June 26, 1945) Articles 1(3), 55(c), 56, 62(2), 68, and 76(c). The United States has internationally pledged itself, through the provisions of the United Nations Charter (duly ratified and adopted by the United States), to promote respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, colour, sex, language, religious belief, political opinion and expression, national or social origin, property, birth or other status. See *Oyama v. California*, 332 U.S. 633 (1948). The United Nations Charter (United States treaty) is indicative of public policy, and courts may treat its provisions as part of the Law of the land. See *Oyama v. California*, 332 U.S. 633, at 650, 673-674 (1948).

STATEMENT OF THE CASE

1. The District Court said but never showed in requested documents that a federal grand jury charged Ms. Rigal and others with conspiracy to commit wire fraud and mail fraud. Ms. Rigal was found guilty on those charges following a jury trial where the witnesses did not know anything about real estate or bank fraud, none of the experts. Prior to sentencing, counsel for Ms. Rigal filed sentencing objections. The judge, Honorable William J. Zloch sentenced Ms. Rigal to a 200-months term of imprisonment plus 36 months of supervised release. Following sentencing, retained counsel moved for leave to allow Ms. Rigal to appeal in forma pauperis and to have appellate counsel appointed Mr. Richard Klugh to represent her. The court granted the motion and appointed Mr. Richard Klugh to represent her in the appeal. Ms. Rigal's conviction and sentence were affirmed on appeal. On April 25, 2016, Ms. Rigal, by and through counsel Richard Klugh, filed a motion for a new trial. The motion was based on newly-discovered evidence demonstrating the Government's violation of *Brady v. Maryland*, 3737 U.S 83 (1963) and *Giglio v. United States*, 405 U.S 150 (1972).

2. Following an evidentiary hearing, the District Court denied the motion for a new trial. Ms. Rigal appealed, and on appeal, the court of appeals affirmed the denial. On October 3, 2017, Ms. Rigal, through counsel, filed a motion pursuant to 28 U.S.C 2255, Case No. 17-CV-61953-WJZ, raising the following grounds for relief: 1.) ineffective assistance of sentencing and appellate counsel in failing to resolve factual inadequacies in the Government's loss calculation for sentencing. 2.) Failure to disclose material exculpatory evidence in violation of *Brady* and *Giglio*. Counsel for both parties filed a joint status report. The status report included a stipulated resolution to the 28 U.S.C 2255 motion. Specifically, as to issue one raised in the 28 U.S.C 2255 motion, the parties stipulated that a proper calculation of loss at the time of Ms. Rigal's initial sentencing would have brought the total amount of sentencing below the \$ 7 million thresholds under U.S.S.G 2B1.1 (b)(1)(K) of the sentencing guidelines applicable at the time of her initial sentencing. As to issue two, the parties stipulated that Ms. Rigal agreed to withdraw that issue. Based on the parties stipulation, the Magistrate Judge issued a report and recommendations. Specifically, the Magistrate Judge recommends that Ms. Rigal's 28 U.S.C 2255 motion be Granted as to issue one that she should be resentenced with the advisory range of 135 to 168 months. As to issue two, the Magistrate Judge recommended that the motion be denied with prejudice. Judge Zloch adopted the report and recommendations of the Magistrate Judge and ordered that Ms. Rigal's sentence 'will be vacated, and the court will resentence Ms. Rigal to a term of imprisonment, taking into account the correct sentencing range based on the correct calculation of her loss amount.

Ms. On July 1, 2019, Judge Zloch issued an order of recusal, and the matter was reassigned to a different district court judge for resentencing. The parties agreed that Ms. Rigal would be resentenced with the new advisory range. Before sentencing counsel, Ms. Rigal filed a sentencing memorandum and a request for a downward variance. The Government filed an opposition to the request. At the sentencing, Judge William P. Dimitrouleas denied the request for a downward variance and sentenced Ms. Rigal to 156-months of terms of imprisonment. Ms. Rigal's counsel appealed in vain. In March 2020, The Cares Act qualified her for home confinement, where she was with excellent conduct as always for almost 24 months.

3. Today, I, Ms. Rigal, invoke similar words, thoughts, and feelings of our Founder Fathers when they were under pressure, tyranny, and oppression at the time of the Declaration of Independence. I am appealing to the common and just judgment of this Honorable Supreme Court as a supervisory power. When in the Course of human events, it becomes necessary for one people to denounce the partial bands which have connected them with another and to assume among the powers the equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the freedom. We hold these truths to be self-evident that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.--That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, --That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes, and accordingly, all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable than to right themselves by abolishing the forms to which they are accustomed.

4. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government and to provide new Guards for their future security.--Such has been the patient sufferance of Ms. Rigal among many others innocent citizens, and such is now the necessity which constrains them to alter their former Systems of Government.

The history of the Judges in the Southern District Court of Florida, specifically the one involved in this case is equal to the King of Great Britain in the time of the Declaration of Independence, is a history of repeated injuries, abuses, usurpations, abuse of Power, all having in direct object the establishment of an absolute Tyranny over We The People. To prove this, let Facts be submitted to a candid world.

5. Ms. Rigal was punished and over-sentenced because I was the only one in the case that exerted her Constitutional right to take the case to a trial. She was charged with a fraud case in which the so-called loss amount was never proved by the court probation officer after, during, or in the trial, never was submitted to an accounting audit, and the right to a compulsory process for obtaining witnesses in my favor was violated.

6. The Government covered a criminal that was the principal of the case and the owner of the real estate school I naively attended because he was cooperating for many years in other drug and criminal cases. The Government was aware of all this and hid the evidence from me because they didn't want me to win the trial. Violation of the Brady v. Maryland, 373 U.S. 83 (1963), and Giglio v. United States, 405 U.S. 150 (1972).

Ms. Rigal requested from all the Bar's members defense attorney she had, in this case, to hire an expert in bank fraud to demonstrate her innocence, and she was defeated with promises and legal wordiness far away from the common Law, the Constitution, and the common sense.

He (The Judge) has obstructed the Administration of Justice by refusing all my motions, petitions asking for my rights, and request appeals, calling her a rat or mouse in a very disrespectful and discriminatory way. A behavior and reaction far away from an impartial Judge.

7. He has denied all her petitions for a sentence reduction based on the regulation and statutes approved by Congress and U.S. President. Thank The Creator Hashem that she has been getting part of those reductions through other agencies such as the F.B.I.O.P.

They, the District Judges, the prosecutor, and the attorneys have denied her the right to validate the "debt" of the restitution, which must be proven that she caused loss to any person or institution. Such losses do not exist. They decided to reduce the sentence based on the "loss amount" reduction, but the lost amount remained the same. Despite this lack of common sense, she is almost sure there is no operation of the common Law of the Land in this case.

8. They, the District Judges, the prosecutor, and the probation officer are forcing her to reduce any food consumption and the regular low living of a person that makes only an average of \$1,800 monthly to pay restitution that never has been proven otherwise they thread her to send me back to prison, which she already spent more than eight (8) years of her life accused unjustly.

9. As our Founder father, in great desperation and oppression and crying for justice, I beg this Honorable Magna Court to stop the tyranny of these public servants abusing their discretion and Power. Several times she has petitioned for redress the Judge of the Southern District Court of Florida, the Honorable William P. Dimitrouleas, in the humblest terms: my repeated petitions have been answered only with repeated injuries and insults.

10. She is appealing to you The Supreme Judges, The Supreme Court, that this case could be heard and exposed because it's of imperative public importance.

REASONS FOR GRANTING THE PETITION

1. The judgments rendered in the District Court (Case No: 0:12-cr-60088-WPD and Case No. 22-cv-60180-CV-DIMITROULEAS.) and Eleventh Circuit (13-14841-A USCA, 17-13068-CC, 19-13219-K USCA) have resulted in conflicting Circuit resolutions arising out of the one and same transaction which shows unusual, exceptional, special circumstances and the high probability that Petitioner will succeed on trial and appeals. Also, the issues presented for review constitute important and novel constitutional issues likely to reoccur in the future, which calls for the supervisory authority (aid of appellate jurisdiction) of the Supreme Court. See 28 U.S.C. § 2101(e). See S. Ct. R. 10(a), (c), 11.
2. Petitioner is currently unlawfully detained and proceeding In Propria Persona; therefore, one original of the Petition For Habeas Corpus, alone, suffices. See S. Ct. R. 12.2, 39.2.

CONCLUSION

There Is an Acknowledged of imperative public importance, and Rigal's constitutional rights have been violated in the name of judicially fashioned codes. Also, it is an acknowledgment of violation of the codes, statutes Brady v. Maryland, 373 U.S. 83 (1963), Gall v. United States 552 U.S. 38, 128 S. Ct. 586 (2007), Giglio v. United States, 405 U.S. 150 (1972), Koon v. United States 518 U.S 81 (1996), Mitchell v. Nobles, 873 F.3d 869 (11th Cir. 2017) among other. This case is an excellent vehicle to decide the question presented.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Quelyory A. Rigal", is written over a horizontal line.

Quelyory A. Rigal

August 3rd, 2022.