

22-6433

ORIGINAL

No. _____

FILED

DEC 28 2022

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

Ricky Escobedo

(Your Name)

— PETITIONER

vs.

United States

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Fifth Circuit

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Ricky Escobedo # 89282380

(Your Name)

P.O. Box 2099

(Address)

Pollock, Louisiana, 71467-4050

(City, State, Zip Code)

(Phone Number)

RECEIVED

DEC 29 2022

OFFICE OF THE CLERK
SUPREME COURT, U.S.

LIST OF PARTIES

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

RELATED CASES

United States v. Escobedo No. SA-17-CR-391 U.S.
District Court for the western District of Texas
Judgment entered July 2, 2019
United States v. Robert Hernandez, No. 19-51135
United States v. Ricky Escobedo (10), No. 20-50052
United States Court of Appeals for the Fifth Circuit
Judgment entered August 1st 2022

QUESTION(S) PRESENTED

Outrageous Government Misconduct where the government intrusion of the attorney-client privilege violated Petitioner's Fifth Amendment and Sixth Amendment?

Ineffective assistance of counsel failure to commit or pursue filed Pretrial motion to suppress evidence of illegal seizure violation of Petitioner's Fourth Amendment, Fifth Amendment and Sixth Amendment rights?

Conflict of interest, after grievance filed to the Bar Association of Texas due to a motion to withdrawal new Court appointed counsel for waiver of Petitioner's motion to suppress without his consent or knowledge violation of Fifth Amendment due process and Sixth Amendment rights?

In the jury's final day of deliberation where they had strong reasonable doubts of Petitioner's affiliation and what was a conspiracy? Thereafter opposing the jury's decision who does abuse of discretion fall on? the Court or Judge?

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 _____ to the petition and is

☐ reported at _____; or,

☐ 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 AUGUST 1st 2012.

☐ 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: _____, 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 October 24, 2012 (date) on December 29, 2012 (date) in Application No. 22 A 336.

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).

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	
STATEMENT OF THE CASE	
REASONS FOR GRANTING THE WRIT	
CONCLUSION.....	

INDEX TO APPENDICES

APPENDIX A	ORDER And Opinion U.S Court of Appeals
APPENDIX B	Transcript of motion proceedings Document #1149, 03/19/18
APPENDIX C	Document no. 777 Motion to suppress evidence
APPENDIX D	Complaint/grievance filed to The Bar Association in Austin tx.
APPENDIX E	Motion to withdraw Counsel "Conflict of interest"
APPENDIX F	

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Fourth Amendment illegal search and seizure.
Fifth Amendment due process clause.
Sixth Amendment right to counsel.

18:1951 CONSP. TO INTERFERE W/COMMERCE BY THREATS OR
VIOL. CT1; 21:841(A)(1), 21:841(B)(1)(A), 21:846 CONSP. TO
DIS. A C/S, METH, COC. & HEROIN CT2; 21:841(A)(1), 21:841
(B)(1)(C) PWITD A C/S, COC. CT11; 18:922(G)(1), 18:924(A)
(2) FELON IN POSS. OF F/A CT13; 18:924(D), 18:924(C)
(1) CONSP. TO POSS. F/A IN FURTH. OF DRG. TRFF.
18:924(C)(1)(A) POSSESSION OF FIREARM IN FURTHERANCE
OF DRUG TRAFFICKING CT12

STATEMENT OF THE CASE

Petitioner argues on December 13, 2017, in the wee hours of the morning where F.B.I agents and U.S Marshals descended upon Geo-group facility with intentions to confiscate any legal documents material whether it intrude or interfered with Attorney-Client privilege information while being held in federal custody deem as pretrial detainee.

In which during the time active U.S Attorney David Shearer the initial promenant prosecutor assigned to the case who had abruptly retired or resigned presumably due to the circumstance that transpired on December 13, 2017. Whereas the presided District Judge Xavier Rodriguez scheduled a hearing for March 19, 2018 motions pending before the court including petitioners motion to suppress evidence (docket no. 777) filed by then counsel Jeff Mulliner on

March 16, 2018. Although one of the issues was the seizure of documents from inmates that consist of attorney-client privilege information confiscated by U.S Marshals and F.B.I agents. That prescribes, in court proceedings held on March 19, 2018 (docket no. 1149) conflicting statements rendered by their new elected prosecution team Russell Dewitt Leachman and Christina Laura Playton. Claiming employee staff members in the Geo-facility were the ones who obtained inmates legal materials and turned it over to the U.S Marshals and F.B.I.

Nevertheless according to the Assistant, warden David Seals of the Geo-facility that contradicts their claims stating: We had nothing to do with this. We did not collect anything. F.B.I. called U.S Marshals. U.S Marshals called me. we had nothing to do with collecting of the evidence.

Moreover the inconsistency of their own Assistant U.S Attorney Ms. Karen Norris where she specifically states: (Sent in an email to counsel) that F.B.I collected these items and did the search. And to later retract her statement during pretrial court proceedings on March 19, 2018 (docket #1149 transcript page 41 to 42) that raises speculative concerns and the integrity of district court legal ethics. (The Texas Rules of Disciplinary Procedure do not allow one attorney in an office and

another attorney in office to pretend to not be in the same office). Courts use four factors to determine whether a defendant suffered prejudice from government intrusion: (1) whether government intrusion into the attorney-client relationship was intentional; (2) whether evidence offered at trial was obtained directly or indirectly from the intrusion; (3) whether the prosecutor obtained any details of defendant's trial preparation or defense strategy and; (4) whether overheard conversations had been used in any other way to the substantial detriment of defendant. When the government interferes in a defendant's relationship with his attorney to the degree that counsel's assistance is rendered ineffective, the government's misconduct may violate the defendant's Fifth Amendment right to due process as well as his Sixth Amendment right to counsel. United States v. Irwin, 612 F.2d 1182, 1185 (4th Cir. 1980).

Furthermore petitioner argues that his former Counsel Jeff Mulliner motion to suppress evidence filed on March 16, 2018 was scheduled to be set for March 23, 2018 by the presided Judge Xavier Rodriguez.

Whereas Counsel's performance fell below an objective standard of reasonableness and canceled his pending hearing before the court without reason or formally informing his client of his actions. Even after several attempts to reach out to Counsel (Thru Spouse) for his explanation of cancellation, which constitutes defendant's relationship with his attorney to the degree that Counsel's assistance is rendered ineffective.

Despite the withdrawal of previous Counsel the Court appointed new Counsel John "Bud" Ritenour where the pending motion to suppress evidence (doc. no. 777) was still active in court proceedings to be rescheduled for a hearing before the presided judge, although on August 13, 2018 where new assigned Counsel had abruptly waived petitioner's motion to suppress evidence (doc. # 777) without his consent or knowledge whatsoever. In which, therefore petitioner filed a complaint to The Texas Bar Association in Austin Tx. against new Counsel for the waiver of his motion to suppress evidence (doc. # 777) and their response in Appendix D. That deliberately caused a conflict of interest between attorney and client especially after filing motion to withdraw Counsel for his ineffectiveness. In Cuyler v. Sullivan, the Supreme Court ruled that a defendant can demonstrate a Sixth Amendment violation by showing that (1) Counsel was actively representing conflict of interest and (2) the conflict had an adverse effect on specific aspects of Counsel's performance.

Finally on July 2nd 2019 during the jury's deliberation in trial court proceedings (doc. no. 1628) where they inquired to the court their legal ethics that determine the meaning "what's a conspiracy? And does he have to be a member to be part of a conspiracy? Meanwhile the presided Judge Xavier Rodriguez then replied "That a conspiracy involve 2 or more people conspiring together to commit criminal activities. And as for him being a member to be part of a conspiracy? The Judge responded No! he don't have to be a member to be part of a conspiracy. But unfortunately the court opposed the jury's decision and determine otherwise still labeled him as member even though the jury had reasonable doubt. Where district court went to great length to cover it up or exclude it from transcript (doc. no. 1628) after being addressed in petitioner's sentence phase document 1629.

REASONS FOR GRANTING THE PETITION

Based upon the preponderance of evidence provided by petitioner Ricky Escobedo and the district court unethical conduct depicted in, tampered, or altered court documents (transcripts) that attempts to seclude their subverted actions. Wherein petitioner has filed a Civil Rights claim against those held responsible that's currently pending in the Supreme Court. In hopes of exonerate and clearing his name so he can move forward with his life taking care of his family and kids. With that being said hope and pray all is taken into consideration.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Ricky Eseshedo

Date: _____