

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

February 16, 2023

Lyle W. Cayce  
Clerk

IN RE PEDRO PEREZ-HERNANDEZ,

*Movant.*

Authorization to file a Successive 2255 Petition

CLERK'S OFFICE:

Authorization to file a successive 2255 motion is dismissed for failure to comply with this Court's notice of September 30, 2022.

LYLE W. CAYCE  
Clerk of the United States Court  
of Appeals for the Fifth Circuit

By: 

Shawn D. Henderson, Deputy Clerk

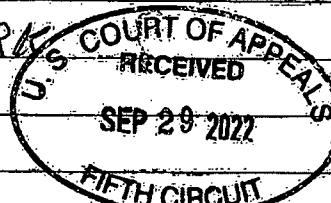
Dear Clerk:

ENTERED AT THE DIRECTION OF THE COURT

I'd received (2) two notices; (1) of case number 20-81136, wherein states

Appendix:-A

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT  
OFFICE OF THE CLERK



TO : CLERK  
U.S. Court of Appeals

Civil Action No. 22-cv-01

From: Pedro Perez Hernandez (rim. ACTION 1:15-CR-775

REQUEST TO FILE A SECUNDARY-SUCCESSIVE  
28 U.S.C. SECTION 2255

Dear Clerk:

I need you to provide me with application for Secondary-Successive 28 U.S.C. Section 2255.

I'd filed a 28 U.S.C. § 2255 at Southern District Court of Texas, where unfortunate denied the motion as untimely.

See, United States v. WATTS, 2014 U.S.LEXIS 783 (5th Cir. 2014). "Watts has not provided any information that would justify equitable tolling.

There is no evidence that he was reasonable diligent in pursuing his rights."

In this instant case, I'd provided information that would have justify for equitable tolling due that had provided proof of been pursuing diligently my rights.

Also, see United States v. Jackson, 470 Fed. Appx.

324 (5th Cir. 2012). "This standard requires reasonable diligence, not maximum feasible diligence". Equitable Tolling is permissible only in "rare exceptions/ circumstances".

A. Petitioner is entitled to equitable tolling only if he shows (1) that he has been pursuing his rights diligently, and (2) that some extraordinary circumstances stood in his way and prevented

Please Turn →

in his way and prevented timely filing."

I'd wrote on 2020 to This Honorable Fifth Circuit Court of Appeals advising and requesting for "Certificate of Appealability" to pursue to file 28U.S.C. 2255 at sentencing District Court, after so many hurdles, I filed a 28U.S.C. 2255 where District Court imposed a date line for Government to response to my allegations that I didn't received response by Government that Thereafter notified to District Court and Government had filed a response to District Court, and District Court provided me a copy of Government's response.

Suddenly received a "Report and Recommendation" by a Magistrate Judge that was appointed by District Judge.

On the "Report and Recommendations" by Magistrate Judge had already denied every ground without had review the objections, evidences(s), or arguments I'd provided to District Court evidence(s) that had been pursuing diligently my rights that met the "rare exceptional circumstances" due that after was sentenced the next day was transfer to different locations that at the end was deported without had received decision of the Direct Appeal.

In light of Justice, I pray to this Honorable Fifth Circuit Court of Appeals to allow me to file the Secondary-Successive 2255 where were violation of Constitutional Law among others violations.

Dated this 24th day of August, 2022.

Please reply to address below.

Sincerely respectfully, Pedro Reg  
Pedro Perez Hernandez  
Reg # 12053-003  
Y3200 CITY FCC  
P.O. Box 5000  
Y3200 CITY MS.

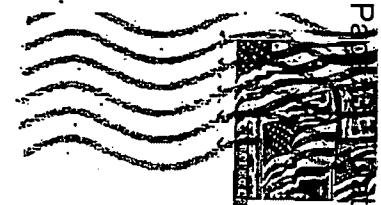
Pedro Perez Hernandez  
Reg. # 12053-003  
Yazoo City FCC  
P. O. Box 5000  
Yazoo City, MS.

39194

Legal mail

JACKSON MS 390

21 SEP 2022 PMS L



United States Court of Appeals  
For The Fifth Circuit  
Office of The Clerk  
F. Edward Hebert Federal Building  
(Main office)  
600 South Macerri Place  
Arlington, Virginia 22202-3449

**United States Court of Appeals**

FIFTH CIRCUIT  
OFFICE OF THE CLERK

LYLE W. CAYCE  
CLERK

TEL. 504-310-7700  
600 S. MAESTRI PLACE,  
Suite 115  
NEW ORLEANS, LA 70130

September 30, 2022

#12053-003

Mr. Pedro Perez-Hernandez  
USP Yazoo City  
2225 Haley Barbour Parkway, P.O. Box 5000  
Yazoo City, MS 39194

No. 22-40647      In re: Pedro Perez-Hernandez

Dear Mr. Perez-Hernandez,

We have received and filed your motion to file a second application for a 28 U.S.C. § 2255 motion.

You have **30 days** from the date of this letter to file with this court a proper motion for authorization to proceed in the district court and to send the documentation below. **The motion may not exceed 30 pages or 13,000 words pursuant to FED. R. APP. P. 32(a)(7).** Please use the case number shown above in your motion. If you fail to file a proper motion for authorization within this 30 day period, or properly request an extension of time, the clerk will enter an order dismissing your application for failure to comply.

If you wish to file a second or successive § 2255 motion in the district court, you must make a *prima facie* showing that you satisfy either of the two conditions found in § 2255(h):

- (A) there is newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable fact finder would have found you guilty of the offense; **or**,
- (B) there is a new rule of constitutional law, made retroactive by the Supreme Court, that was previously unavailable.

You must attach the following documentation to your § 2255 motion to this court:

- (1) a copy of the proposed § 2255 motion you are requesting permission to file in the district court

- (2) copies of all previous § 2255 motions challenging the sentence received in any conviction for which you are currently incarcerated; all previous § 2241 petitions challenging the terms and conditions of your imprisonment;
- (3) any complaint, regardless of title, that was subsequently treated by the district court as a § 2255 motion or § 2241 petition;
- (4) all court opinions and orders disposing of the claims advanced in (2) or (3) above;
- (5) all magistrate judge's reports and recommendations issued in connection with the claims advanced in (2) or (3) above.

If, after due diligence and through no fault of your own, you cannot obtain the documents described above, you should submit an affidavit describing the steps you took to obtain them and explaining why you were unsuccessful. If possible, you should also identify by court, case name and case number any proceeding for which you cannot obtain the documents in (2) and (3) above.

The 30 day time limit within which this court must address your § 2255 motion will not begin to run until the clerk's office receives your response to this letter.

Sincerely,

LYLE W. CAYCE, Clerk



By: Donna L. Mendez, Deputy Clerk  
504-310-7677

**ENTERED**

July 15, 2022

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION

PEDRO PEREZ HERNANDEZ

§

Petitioner

§

VS.

§

UNITED STATES OF AMERICA

§

CIVIL ACTION NO. 1:22-CV-016  
CRIM. ACTION NO. 1:15-CR-775

**ORDER AND OPINION**

In February 2022, Plaintiff Pedro Perez-Hernandez, representing himself, filed a Motion to Vacate, Set Aside, or Correct his Sentence Pursuant to 28 U.S.C. § 2255, challenging his conviction for illegal reentry on the grounds that he received ineffective assistance of counsel, that the district court abused its discretion, that the district court interfered with his criminal proceedings, and that the district court showed actual bias. (Motion, Doc. 1)

A United States Magistrate Judge recommends that Perez's motion be denied as untimely and substantively meritless. (R&R, Doc. 13) Perez objects to the recommendation on the same three issues raised before the Magistrate Judge, arguing "that the grounds been stated by the Magistrate are incomplete." (Objections, Doc. 20, 11) The Court reviews the portions of the Report and Recommendation to which Perez objects *de novo* and all other portions for plain error. *See* FED. R. CIV. P. 72(b)(3).

Based on the issues raised within Perez's motion and the applicable law, the Court concludes that the Report and Recommendation correctly applies the law to the alleged facts. Perez's motion is time-barred because he filed it well beyond one year after his conviction became final, and he fails to demonstrate any "rare and exceptional circumstances" to justify an "equitable toll" of the one-year deadline. *See* 28 U.S.C. § 2255(f)(1); *Davis v. Johnson*, 158 F.3d 806, 811 (5th Cir. 1998). And for the reasons expressed in the Report and Recommendation, the Court agrees that Perez's motion is substantively meritless.

JUL 19 2022

In his objections, Perez also attempts to resurrect his claim that he acquired derivative United States citizenship through his father. (Objections, Doc. 20, 4) According to the state-court records, Perez pursued this claim prior to his criminal trial until his defense counsel determined it was meritless. (Jury Selection Transcript, No. 1:15-CR-775, Doc. 143, 6:14–7:03) In the current matter, Perez did not raise this issue in his original Petition. (It is well settled that issues raised for the first time in objections to a magistrate judge's report are deemed not properly before the district court and therefore cannot be raised on appeal.) *K Invs., Inc. v. B-Gas Ltd.*, No. 21-40642, 2022 WL 964210, at \*5 (5th Cir. Mar. 30, 2022); *see also United States v. Armstrong*, 951 F.2d 626, 630 (5th Cir. 1992) (“Instead, Armstrong first argued these issues in his objections to the magistrate judge's findings, conclusions and recommendations. These issues were not properly before the district court, therefore this court will not address them.”). Perez's objections on this matter are not properly before the Court and are disregarded.

As a result, the Court **OVERRULES** Perez's objections and **ADOPTS** the Report and Recommendation (Doc. 13). It is:

**ORDERED** that Plaintiff Pedro Perez-Hernandez's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct his Sentence (Doc. 1) is **DENIED**.

In addition, the Court finds that no outstanding issue would be debatable among jurists of reason, and that Perez fails to make a “substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). Accordingly, the Court **DENIES** a Certificate of Appealability.

This Order is a final and appealable judgment.

The Clerk of Court is directed to close this matter.

Signed on July 15, 2022.

Request for Returning motion

Dear Clerk,  
I'd received the "Order and Opinion" by U.S. District Judge where unfortunate United States District Judge denied my motion of response to his Report and Recommendation 21 untimely and substantially meritless.  
Although, I disagreed.  
Since This Honorable Court didn't entertained, I like to request to returned it to address below,  
Dated this 23rd day of August, 2022

*Fernando Rodriguez, Jr.*

Fernando Rodriguez, Jr.  
United States District Judge

TRUE COPY I CERTIFY AND ATTEST:  
NATHAN OHSNER, CLERK OF COURT

By *febcare*  
DEPUTY CLERK

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION

PEDRO PEREZ HERNANDEZ

Petitioner  
VS.

UNITED STATES OF AMERICA

§  
§ CIVIL ACTION NO. 1:22-CV-016  
§ CRIM. ACTION NO. 1:15-CR-775-01  
§

**ORDER**

Petitioner Pedro Perez-Hernandez requests additional time to file objections to the Magistrate Judge's Report and Recommendation, due to restricted access to the library caused by the COVID-19 pandemic. (Request for Extra-Time, Doc. 16) He also requests a copy of the Government's Response (Doc. 12). In addition, Perez requests a "change of venue" due to "[a]ctual bias by District Judge" and because the Magistrate Judge did not consider evidence as to Perez's claims. (*Id.* at 1)

The Court finds that good cause exists for the requested extension of time to file objections to the Report and Recommendation.

As to Perez's request for a "change of venue", the Court will consider the request as a motion for recusal. Perez conclusorily argues that the District Court Judge that presided over his trial and sentenced him demonstrated "actual bias". Perez provides no grounds to support this argument, and the Court identifies no such bias in the record. In any event, the District Court Judge that presided over his trial and sentenced him is not the undersigned judge considering the Report and Recommendation. As a result, Perez's argument regarding any bias by the trial and sentencing judge is moot.

*Incorrect*

To the extent that Perez also seeks recusal of the Magistrate Judge that issued the Report and Recommendation, the Court will consider the argument as an objection to the Report and Recommendation.

As a result, it is:

1 / 2

Appendix = C

**ORDERED** that Petitioner Pedro Perez-Hernandez's Motion for Extra-Time and Change of Venue (Doc. 16) is **GRANTED IN PART AND DENIED IN PART**;

**ORDERED** that Petitioner Pedro Perez-Hernandez may submit additional objections to the Report and Recommendation by no later than June 17, 2022; and

**ORDERED** that Petitioner Pedro Perez-Hernandez's request to recuse the trial and sentencing judge is **DENIED** as moot.

The Clerk of Court is directed to mail a copy of the United States' Motion to Dismiss and Memorandum in Opposition to § 2255 Motion (Doc. 12) to Petitioner Pedro Perez-Hernandez.

Signed on May 10, 2022.

  
Fernando Rodriguez, Jr.  
United States District Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION

PEDRO PEREZ-HERNANDEZ, §  
Petitioner, §  
§  
v. § CIVIL ACTION NO. 1:22-cv-16  
§ CRIM. ACTION NO. 1:15-775-1  
UNITED STATES OF AMERICA, §  
Respondent. §

**REPORT AND RECOMMENDATION OF THE MAGISTRATE JUDGE**

On February 18, 2022, Petitioner Pedro Perez-Hernandez filed a motion to vacate, set aside or correct his sentence pursuant to 42 U.S.C. § 2255. Dkt. No. 1.

On April 22, 2022, the Government filed a motion in response to the petition. Dkt. No. 12.

After reviewing the file and the relevant case law, the Court recommends that the petition be denied. Perez-Hernandez's petition is untimely filed and substantively meritless.

**I. Background**

**A. Factual Background**

**1. Indictment & Trial**

On August 25, 2015, the grand jury indicted Perez-Hernandez on one count of illegally re-entering the United States after having been previously deported, a violation of 8 U.S.C. § 1326(a) & (b)(1). U.S. v. Perez-Hernandez, Criminal No. 1:15-775-1, Dkt. No. 5 (J. Hanen presiding) [hereinafter CR]. A public defender was appointed to represent Perez-Hernandez. CR Dkt. No. 3.

On September 24, 2015, the public defender filed a motion to withdraw, citing a breakdown in the attorney-client relationship. CR Dkt. No. 9. On September 25, 2015, the Court granted the motion to withdraw and appointed new defense counsel. CR Dkt. No. 10.

On October 22, 2015, Perez-Hernandez's counsel filed a motion to withdraw, on the grounds that he had just been appointed as a state court judge. CR Dkt. No. 14. On October 27, 2015, the Court granted the motion and appointed new defense counsel. CR Dkt. No. 15.

On January 19, 2016, Perez-Hernandez filed a pro se motion to have his defense counsel replaced for advising him to waive his preliminary examination. CR Dkt. No. 24. On January 26, 2016, the Court granted the motion and appointed new defense counsel. CR Dkt. No. 26.

On March 17, 2016, Perez-Hernandez's counsel filed a motion for permission to retain an expert, a local immigration attorney, to determine whether Perez-Hernandez had a valid claim to U.S. citizenship, which would serve as an absolute defense to his conviction.<sup>1</sup> CR Dkt. No. 27. The following day, the Court granted the motion to retain the expert. CR Dkt. No. 28.

On May 16, 2016, the Court held the final pretrial conference. CR Dkt. No. 142. The Court inquired as to whether Perez-Hernandez was aware of the "downsides" of going to trial. Defense counsel responded:

Your Honor, I've discussed with Mr. Perez the fact that we're looking at roughly a year and a half difference. If he's convicted of this offense, the points for acceptance of responsibility, if he doesn't receive those, would be about 18 months, 16 months, just kind of depending on which criminal history level he would be determined to fall in.

CR Dkt. No. 142, p. 2.

The Court asked Perez-Hernandez if he still wanted to go to trial, knowing those downsides. Id. Perez-Hernandez replied, "Yes, Your Honor." Id.

On May 17, 2016, before the start of trial, Perez-Hernandez made a pro se oral motion to have defense counsel replaced on the basis of ineffective assistance of counsel. CR Dkt. No. 143, pp. 2-6. Defense counsel informed the Court that his expert's opinion

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<sup>1</sup> "[C]itizenship negates the alienage requirement of [...] 8 U.S.C. § 1326." U.S. v. Juarez, 672 F.3d 381, 386 (5th Cir. 2012).

United States District Court  
Southern District of Texas

**ENTERED**

August 06, 2020

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION

UNITED STATES OF AMERICA

§

VS.

§

CRIMINAL ACTION NO. 1:15-CR-775-1

PEDRO PEREZ-HERNANDEZ

§

**ORDER**

Defendant Pedro Perez-Hernandez makes his fourth request for numerous categories of documents that he claims are necessary to prepare an action under 28 U.S.C. § 2255. (Motion, Doc. 178)

An indigent defendant has a statutory right to free court documents, including transcripts, in some circumstances. *See* 28 U.S.C. § 753(f); *United States v. MacCollom*, 426 U.S. 317, 323 (1976). However, the defendant must establish that the documents are needed to decide an issue in a pending suit and that the suit is not frivolous. 28 U.S.C. § 753(f).

Currently, Perez has no pending suit before the Court. And although he claims to need these documents to file a Section 2255 motion, indigent federal prisoners are “not entitled to obtain copies of court records at the government’s expense to search for possible defects” to support the filing of such a motion. *United States v. Herrera*, 474 F.2d 1049, 1049–50 (5th Cir. 1974). As a result, Perez fails to meet the statutory requirements for documents at government expense. *See* 28 U.S.C. § 753(f). As a result, it is:

**ORDERED** that Defendant Pedro Perez-Hernandez’s Requesting Again Sentencing, Exhibits, and Motion Transcripts to Proceed Pursuant Section 2255 (Doc. 178) is **DENIED**.

*Appendix = "E"*

UNITED STATES OF AMERICA, Plaintiff-Appellee v. PEDRO PEREZ-HERNANDEZ,  
Defendant-Appellant

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

711 Fed. Appx. 230; 2018 U.S. App. LEXIS 3162

No. 17-40381 Summary Calendar Consolidated with 17-40385

February 9, 2018, Filed

**Notice:**

**PLEASE REFER TO FEDERAL RULES OF APPELLATE PROCEDURE RULE 32.1 GOVERNING  
THE CITATION TO UNPUBLISHED OPINIONS.**

**Editorial Information: Prior History**

{2018 U.S. App. LEXIS 1} Appeals from the United States District Court for the Southern District of Texas. USDC No. 1:15-CR-775-1. USDC No. 1:14-CR-867-1.

**Counsel**

For United States of America (17-40381, 17-40385), Plaintiff - Appellee: Holly Ann D'Andrea, Assistant U.S. Attorney, U.S. Attorney's Office, Southern District of Texas, Brownsville, TX; Carmen Castillo Mitchell, Assistant U.S. Attorney, U.S. Attorney's Office, Southern District of Texas, Houston, TX.

For Pedro Perez-Hernandez (17-40381, 17-40385), Defendant - Appellant: Paul Georges Hajjar, Brownsville, TX.

**Judges:** Before DAVIS, CLEMENT and COSTA, Circuit Judges.

**Opinion**

**{711 Fed. Appx. 230} PER CURIAM:**

In 2012, Pedro Perez-Hernandez, who at that time was a legal permanent resident of the United States, pleaded guilty to being a felon in possession of a firearm and was sentenced to 46 months of imprisonment and three years of supervised release. After being deported pursuant to 8 U.S.C. § 1227(a)(2)(C), and while still on supervised release for the firearm offense, Perez-Hernandez was found in the United States and charged with being an alien unlawfully in the United States, in violation of 8 U.S.C. § 1326(a), (b)(1). Probation officers also petitioned to revoke the supervised release due to his illegal reentry in the United States. A jury convicted {2018 U.S. App. LEXIS 2} Perez-Hernandez of illegal reentry, and the court sentenced him to 24 months of imprisonment and three years of supervised release. Relying on the guilty verdict for illegal reentry, the court revoked Perez-Hernandez's supervised release as to the firearm offense and sentenced him to four additional months of imprisonment {711 Fed. Appx. 231} and no additional term of supervised release. Perez-Hernandez timely appealed both cases, which have been consolidated on appeal.

In his sole assignment of error with respect to his illegal reentry conviction, Perez-Hernandez contends that the district court used his uncounseled deportation proceedings to impose an eighteen-month sentencing enhancement, in violation of the Sixth Amendment and the Due Process Clause. Because Perez-Hernandez did not raise this issue in the district court, it is subject to plain error review. See Puckett v. United States, 556 U.S. 129, 135, 129 S. Ct. 1423, 173 L. Ed. 2d 266

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Exhibit E

(2009). To show plain error, Perez-Hernandez must show a forfeited error that is clear or obvious and that affected his substantial rights. See *id.*

Perez-Hernandez's "enhancement" argument is an attack on the prosecutor's decision to charge him with violating § 1326, rather than 8 U.S.C. § 1325, in light of his prior deportation. However, "so long as the prosecutor has probable cause to believe that the [2018 U.S. App. LEXIS 3] accused committed an offense defined by statute, the decision whether or not to prosecute, and what charge to file or bring before a grand jury, generally rests entirely in his discretion." *Bordenkircher v. Hayes*, 434 U.S. 357, 364, 98 S. Ct. 663, 54 L. Ed. 2d 604 (1978) (internal citation omitted). Furthermore, a jury found Perez-Hernandez guilty of a violation of § 1326, and the district court sentenced him accordingly. Therefore, Perez-Hernandez has not shown that the district court committed any error, plain or otherwise. See *Puckett*, 556 U.S. at 135.

Perez-Hernandez raises three issues with respect to the revocation of his supervised release. However, during the pendency of this appeal, Perez-Hernandez was released from custody. This court should always be cognizant of jurisdiction and should examine the issue *sua sponte* if needed. *Mosley v. Cozby*, 813 F.2d 659, 660 (5th Cir. 1987); see *Bailey v. Southerland*, 821 F.2d 277, 278 (5th Cir. 1987). Under Article III's case-or-controversy requirement, "some concrete and continuing injury other than the now-ended incarceration or parole—some collateral consequence of the conviction—must exist if the suit is to be maintained." *Spencer v. Kemna*, 523 U.S. 1, 7, 118 S. Ct. 978, 140 L. Ed. 2d 43 (1998) (internal quotation marks and citation omitted).

Because the district court did not impose an additional term of supervised release upon revocation, Perez-Hernandez does not face a collateral consequence based on any additional [2018 U.S. App. LEXIS 4] term of supervised release. See *id.* at 7; *United States v. Clark*, 193 F.3d 845, 847–48 (5th Cir. 1999). Further, Perez-Hernandez does not demonstrate any other "concrete and continuing injury other than the now-ended" term of imprisonment with respect to the revocation. *Spencer*, 523 U.S. at 7; see *Clark*, 193 F.3d at 847 (holding that the defendant has the burden of showing collateral consequences).

Accordingly, Perez-Hernandez's sentence imposed following his illegal reentry conviction is AFFIRMED, and his appeal from the revocation of his supervised release relating to his firearm offense is DISMISSED as moot.

#### Footnotes

Pursuant to 5th Cir. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5th Cir. R. 47.5.4.

OFFICE OF THE CLERK  
SUPREME COURT OF THE UNITED STATES  
WASHINGTON, D. C. 20543

CLERK  
U.S. Supreme Court

From: Pedro Perez Hernandez - Reg. #-12053003

Dear Clerk:

I'm very thankful for the opportunity of allow to file "Petition For Writ of Certiorari", although the chances of review the case are very slim.

I'll like to apply Haines v. Kenner, 404 U.S. 519(1972). "Pro-se litigants are to be construed liberally and held to less stringent standards, than formal pleading drafted by lawyers."

At the same time I'll like to inform to this Honorable U.S. Supreme Court that, I'm serving an exagerate sentence of offense of reentry into the United States of (63) months and (8) addition months for alleges violation of Supervise release. See, attach Fifth Cir. Opinion, where Southern District Court did not impose any supervise release.

I'm encarcerated at USP Prison, where there are some prisoners serving life + years.

I'm classified low risk recevidism level without any disciplinary report and where been completed several recevidism programs. (Where feel my life is at risk at this facility (Yazoo City).

On December 31, 2022. It was a "riot" here in this Pod where (3) inmates got injured with "ice-picks", and one in the head.

I'd been requested to Warden to be moved to a Low facility, inclusive to BOP Director without receive or done anything.

Here most of the time been "lock-down" in the pod or the cell.

I'd been treated unfairly without any consideration although had been applied "exceptional circumstances" due that my U.S. Citizen and widow of an ex-marine mother who had suffered a brain stroke where she was need me due that, I was her only son.

She was place in a nursing home due that no one could take care at her house, that was one of the main reason to come illegally, although I'd tried different way to come legally but where denied.

In "Light of Justice" and reputation of judicial conduct where been treated unfairly when all had been in "Sought of Justice" where been violated his rights. It's that a crime!.

I've attached Motion For Leave In Forma Pauperis, Affidavit in support to Proceed In Forma Pauperis, and filled up the content of the Petition including a motion under Statement Of The Case, and exhibits.

Dated this 31st day of March, 2023.

Sincerely respectfully

Pedro Perez Hernandez

