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Eliu Lorenzana

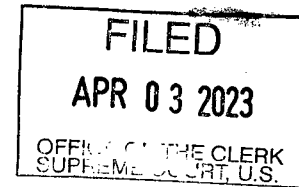
Reg. # 33578-016

United States Penitentiary

P.O.BOX: 3900

Adelanto, CA., 92301

ORIGINAL



IN THE UNITED STATES SUPREME COURT

ELIU LORENZANA-CORDON

Petitioner,

V.

Case No. 03CR331-13 CKK

UNITED STATES OF AMERICA,

Respondent.

PETITION FOR A WRIT OF CERTIORARI OF JUDGMENT ENTERED BY
THE UNITED STATES COURT OF APPEALS FOR COLUMBIA CIRCUIT.

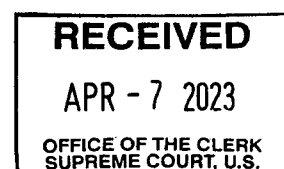


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PROCEDURAL HISTORY

On April 2/2009 a Grand jury issued an indictment charging petitioner with conspiracy to manufacture, distribute and import five kilograms or more of cocaine into the United States, in violation of 21 U.S.C.s. 952, 959, 960 (b) (1) (B) (ii) and 963. Petitioner was subsequently arrested and extradited to the United States from Guatemala. On March 22/2016 a jury rendered a guilty verdict against petitioner on all charges. In Feb. of 2018 the United States District Court for the Columbia circuit imposed a term of life sentence of imprisonment.

On 12/15/2019. I file a timely notice of appeal. No. 18-3019

On 1/31/2020. The United States Court of Appeals for the circuit of Columbia affirmed the judgment of the District Court.

United States V. Eliu Elixander Lorenzana-Cordon 949, F. 3d 1; 445 U.S. App. (Circuit of Columbia Jan. 1/2020)

On 8/31/2020. A petition for rehearing En Banc was filed. Case file No. 18-3019

On Ago. 31 2020 Rehearing En Banc was denied. No. 18-3019

On 4/27/2020. I filed a petition for Certiorari in this honorable Court.

On 5/24/2021. This honorable Court denied certiorari Elixander Lorenzana-Cordon V. United States 141 S. Ct. 2688, 210 L. Ed. 2d. 844 (2021)

On 5/24/2022. I filed my initial Habeas Corpus petition under title 28 U.S.C.ss.2255.

Then after I filed a motion requesting to be released on Bail while awaiting resolution of my pending motion under section 2255. Subsequently on 17/2022. The District Court denied the motion requesting Bail. United States V. Elixander Lorenzana-Cordon 2022 U.S. Dist. Lexis 208308 (Nov. 17/2022).

On December 05/2022 I filed a timely notice of appeal.

On March 16/2023. The United States Court of Appeals for the circuit of Columbia affirmed the judgment of the District Court. Appeal No. 22-3097

**IS IT A HABEAS CORPUS PETITIONER ENTITLED TO BE
RELEASE ON BAIL WHILE AWAITING RESOLUTION OF HIS HABEAS
CORPUS PETITION, IF HE PRESENT MERITORIOUS CLAIMS OF
ACTUAL INNOCENCE PURSUANT TO SECTION 2255?**

STATEMENT OF JURISDICTION

This honorable court has jurisdiction to review the judgment entered by the United States Court of Appeals for the circuit of Columbia pursuant to Title 28 U.S.C.ss. 1257 (a) (b) Which provides: (a) Final judgments or decrees rendered by the highest Court of a State on which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right , privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States. (b) For purposes of this section, the term "high-test court of a state" includes the District of Columbia Court of Appeals.

This honorable court also has jurisdiction under Title 28 U.S.C.ss. 1254 (1) Which provides: Cases in the Court of Appeals may be review by the Supreme Court by the following method: (1) by writ if certiorari granted upon the petition of any party, in any civil or criminal case, before or after rendition of judgment or decree.

ARGUMENT AS TO QUESTION PRESENTED

Since this is a matter arising from a Habeas Corpus proceeding under Title 28 U.S.C.ss. 2255. This honorable Court must take into consideration the claims presented in the petition to the District Court under section 2255. Which are as follow:

(1) Ineffective assistance of counsel during pre-trial, trial, sentencing, and direct appeal process.

(2) Prosecutorial misconduct during extradition process in the way of using false testimony to deceit the Guatemalan authorities and attain my extradition.

(3) False imprisonment due to a malicious prosecution and misrepresentation during extradition process. (See Motion to vacate sentence. Marked as appendix A)

Now, it appears that the District's court denial of my request to be release on Bail while awaiting resolution of my petition under section 2255. Is based on the determination that on the face of the petition it does not seems like it has meritorious grounds for relief. And the subsequent judgment of the Court of Appeals affirming the judgment of the District Court seems to be based on the same conclusion. However, this conclusion has been reached based on the mistaken believe that violations to my extradition process may not be use to

overturn my conviction. This assumption is wrong because I was extradited pursuant to a existent extradition treaty made by the United States and my home country the Republic of Guatemala. It's well established by this honorable court's precedents that the treaty of which the United States is a party shall be regarded as an act of congress. *United States v. Rauscher*, 30 L. Ed. 425, 119 U.S. 407 (March 2, 1889). and *Jonhson V. Brown*, 51 L. Ed. 816, 205 .S. 309 (April 8, 1907). In *Rauscher* this honorable court recognized that a treaty of the United States is a party it must be regarded as the law of the land and therefore it must be respected by the court as an act of congress or the United States Constitution.

In *Brown* this honorable court established that extradition proceedings and subsequent extradition decrees are considered part and/or extensions of the treaty since these proceedings are based on interpretation of the treaty provisions. Thus, it is settled that any violation to the extradition process constitutes direct violation to the treaty and a violation to the treaty shall be considered in the same manner as if it was a violation to the United States constitution. And/or an act of congress.

My posture and argument revolve around the introduction and used of false statement to deceit Guatemalan's government Officials in order to attain my extradition. The Guatemala extradition decree was clear when it stated that it was

granting extradition for a conspiracy that took place from 1999 to at least 2003.
(see extradition decree marked as appendix B).

Now, the United States government only had evidence of criminal activity relating to this time frame. And since the indictment was filed in 2009 it was clear that it was barred by the provisions of Title 18 U.S.C.ss. 3282 (a) "[e]xcept as otherwise expressly provided by law, no person shall be prosecuted, tried, or punished for any offense, not capital, unless the indictment is found or the information is instituted within five years next after such offenses shall have been committed ." Thus, the government used false statement in the form of an affidavit of DEA agent Stephen Fraga in order to validate the indictment.

The statement of Stephen Fraga provides in pertinent part: Based on my training and experience and some confidential sources I know that Eliu Lorenzana made some drug transactions on 2004, 2005 and 2006 and that was enough for the indictment to be considered timely. However, the information provided by Stephen Fraga has never been corroborated neither Mr. Fraga nor his confidential sources were made available for confrontation. And despite my many attempts to get this information verified. Neither the government nor the court has allowed the corroboration of these statements.

The government has ignored my request through subpoena to produce the information that will corroborate the veracity of Mr. Fraga's statements. And the District Court has denied my request to make this information part of the official record.

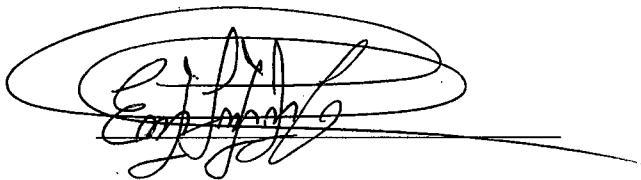
It must be noted that I am only requesting release on Bail. If for whatever reason the results of My Habeas Corpus petition turn out to be negative I'll just turn myself in and come back to prison. All I'm asking for is just the opportunity to fight my case on equal and fair ground. Inside prison is hard to present adequate defense when one must rely on fellow inmates to translate your legal work.

CONCLUSION

Based on the foregoing I respectfully request that this honorable Court grant me certiorari from the judgment of the United States Court of Appeals. And subsequently remand my case back to the District Court with instructions to grant me release on Bail.

Thank you for your time and consideration!

Respectfully submitted this __03__ day of __April__ 2023.



Signature