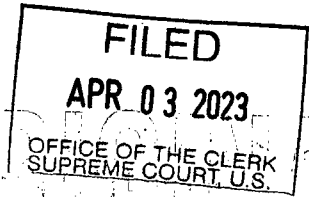


22-7593

Case No.



IN THE
SUPREME COURT OF THE UNITED STATES

In re: EDWIN W. RUBIS

On Petition for Writ of Habeas Corpus to the
Supreme Court of the United States

PETITION FOR EXTRAORDINARY
WRIT OF HABEAS CORPUS
WITH APPENDIX
PURSUANT TO 28 U.S.C. § 2241

Edwin W. Rubis pro se
Reg No. 79282-079
FCI Talladega
PMB 1000
Talladega, AL 35160

I. QUESTIONS PRESENTED

1. Whether Rules 14 (g) and (h) are not applicable to a petition for writ of habeas corpus to the Supreme Court of the United States that has original jurisdiction.

2. Whether being in federal custody is a substantial taking, a denial, a concrete injury of Petitioner's constitutional right of liberty, without "sufficient cause," without compelling reasons for the United States Congress to proscribe marijuana as a dangerous substance, a drug crime, therefore without due process of law contravening Amendments IV and V of the Constitution of the United States, and is unconstitutional, vacating his convictions, restoring his liberty.

PARTY TO THE PROCEEDING

Edwin W, Rubis is in the custody of:

Ms. M. Kimberly, Warden
FCI Talladega
Federal Correctional Institution
565 East Renfroe Road
Talladega, AL 35160

RELATED CRIMINAL CASE

United States District Court for the Southern District of Texas
United States of America v. Edwin W. Rubis H-98-CR-57, 8/17/1999. Citation
unknown.

APPENDIX'S TABLE OF CONTENTS

Pertinent Text

Appendix A. United States District Court for the Southern District of Texas
United States of America v. Edwin W. Rubis H-98-CR-57, 8/17/1999. App. 1a

Appendix B. Table of Authorities Pertinent Text

I. Rules of the Supreme Court of the United StatesApp. 5a

II. Constitutional ProvisionsApp. 5a

III United States CodeApp. 6a

IV United Nation Single Convention on Narcotic Drugs(1961)App 7a

PETITION FOR EXTRAORDINARY WRIT OF HABEAS CORPUS

ORIGINAL JURISDICTION

A justice of this Court had original jurisdiction to grant an application for writs of habeas corpus by 28 U.S.C. § 2241(a). App. 6a. This is superseded by Supreme Court Rule 20. 4. (b). The petition is distributed to the court. App. 5a. Rule 20.2. referred to Rule 14. Sections (g) (h) are not “applicable.” This is not an appeal.

EXCEPTIONAL CIRCUMSTANCES

This petition for extraordinary writ of habeas corpus, has exceptional circumstances. Petitioner is in federal custody in violation of the Constitution of the United States. 28 U.S.C. § 2241 (c) (3). App. 6a Applicant is also timed barred to make “application to the district court of the district in which the applicant” was convicted on 8/17/1999. 28 U.S.C. § 2242, §2255 (f), App. 7a.

CRIMINAL CASE

Petitioner/applicant was convicted for conspiracy to possess and possession with intent to distribute marijuana on numerous counts. App. 1a, 2a. He was sentence for a total of 480 months, 8/17/1999. App, 3a. He then has 5 years supervised release. App. 4a.

AUTHORITIES Appendix B

SCOTUS Rule 20; Constitutional provision: Articles I, III, VI, Amendments IV and V; Statutes: 18 U.S.C. 924 (c)(1); 21 U.S.C. 81(d)(1); 28 U.S.C. §§ 2241-43, §2255(f), United Nation Single Convention on Narcotic Drugs (1961).

STATEMENT OF CASE

SCOTUS Rule 20 2. is not “applicable” requiring compliance with Rule 14 (g) and (h). Content of a Petition for a Writ of Certiorari. This is not an appeal from a state or federal court.

The Supreme Court of the United States Court has original jurisdiction to review an application for a writ of habeas corpus of a prisoner if he is in custody in violation of the Constitution [. . .] 28 U.S.C. § 2241(a), (c) (3). App. 6a.

This petition for writ of habeas corpus is to decide an important federal question. What is the original meaning of liberty in the due process clause? It is a call for the exercise of this Court’s constitutional authority to make things right. To declare liberty means freedom from any type of government custody.

Chief Justice Marshall. “The writ of habeas corpus is a high prerogative writ, known to the common law, the great object of which is the liberation of those who may be imprisoned without sufficient cause.” *Ex Parte Watkins*, 28 U.S. 193, 202 (1830). “[L]iberty in the context of a habeas corpus proceeding—a proceeding classically associated with obtaining freedom from physical restraint.” *Obergefell v. Hodges*, 576 U.S. 644 (2015) THOMAS, J., dissenting Section II A. 1.

Justice Thomas calls for an end to substantive due process.

In future cases, we should “follow the text of the Constitution, which sets forth certain substantive rights that cannot be taken away, and adds, beyond that, a right to due process when life, liberty, or property is to be taken away.” Carlton, 512 U. S 26 at 42 (1994) (opinion of Scalia,

J.). Substantive due process conflicts with that textual command and has harmed our country in many ways. Accordingly, we should eliminate it from our jurisprudence at the earliest opportunity. *Dobbs v. Jackson Women's Health Organization* 597 U.S. ____ (2022) No. 19-1392 Thomas J concurring. (Last paragraph).

(The threatened concrete injury to medical providers' liberty by criminal prosecution was not at issue in *Dobbs*, or any abortion case brought to this Court.)

It is time for this Court to redefine substantive due process of law. It is not the substance of liberty or property but the substance, the compelling reasons for laws that authorize government police power. "In general, substantive due process requires the State to have a legitimate and very compelling need for enacting any law that affects people's exercise of certain fundamental rights." Legislators' Handbook 131st Maine Legislature. 2022 page 32. <https://legislature.maine.gov/doc/9334>

This Court's substantive due process of law has demeaned liberty, thereby due process for a writ of habeas corpus. Criminal laws have become a political question. What is a crime is not a liberty interest deeply rooted to be fundamental. There is no liberty interest to sell marijuana. Judicial review of the marijuana laws has been rational basis, a political question, political police power. "Congress had a rational basis [. . .] to regulate the intrastate manufacture and possession of marijuana [. . .]" *Gonzales v. Raich* 545 U.S.C. 1, 22 (2005). Raich's Counsel did not claim the detaining of Raich's liberty or destruction of property without due process of law.

Criminal laws are an Article III case and controversy. It is unprecedented, this Court has never reviewed the constitutionality of Congress proscribing marijuana

as a dangerous drug by strict scrutiny. The operation and effect of police power was the seizure of Petitioner's person and the deprivation, the "taking," of his liberty by the United States of America. Petitioner is in federal custody for marijuana distribution. This profession is not a "liberty interest," not a fundamental right. He is incarcerated without due process of law. Deprived of liberty not knowing the compelling reasons for U.S. Congress to proscribe marijuana as a dangerous substance.

Wrongly presented, this Court declared marijuana not a liberty interest and a political question. Now, a large majority of States by the democratic process have legalized marijuana for medicinal and recreational use in violation of Article VI of the Constitution of the United States. Supremacy Clause. App. 5a.

Without "constitutional limitation," states are in violation of federal law, 21 USC § 811 (d) (1) to comply with United Nations' *Single Convention on Narcotic Drugs (1961)* App. 7a. This convention is the law of the land, Article VI.

The rule of law has been degraded by substantive due process. By rational judicial review, the marijuana laws have been declared constitutional. It is not a fundamental right, a political question. Mr. Rubis has been a political prisoner since 1999. Criminal laws are not a political question. "One's right to life, liberty, and property [. . .] may not be submitted to vote; they depend on the outcome of no elections. *West Virginia Board of Education v. Barnette*, 319 U.S. 624, 638 (1943).

"The validity of regulatory measures, [police power] may be challenged on the

ground that they transgress the Constitution, and thereupon it becomes the duty of the court, in the light of the facts in the case, to determine whether the regulation is reasonable and valid or essentially unreasonable, arbitrary, and void." *Norfolk & W.R. Co. v Public Service Commission of West Virginia* 265 U.S. 70,74 (1924)

Judicial review of federal criminal laws proscribing marijuana by strict scrutiny is unprecedented. Being illegally deprived of liberty and timed barred, present exceptional circumstances. Adequate relief cannot be obtained in any other form or from any other court. Petitioner's Writ of Habeas Corpus presents is an Article III case and controversy. Petitioner has standing with a concrete injury to his right of liberty. The respondent must have "sufficient cause," compelling reasons the federal proscription of marijuana does not violate Amendments IV and V of the Constitution of the United States. Petitioner is in federal custody legally.

CONCLUSION

Exceptional, unprecedented circumstances warrant the exercise of the Court's authority to order the government to respond to why this writ of habeas corpus should not be granted. Or the Court can use its discretion to GRANT Rubis's Petition for Extraordinary Writ of Habeas Corpus.

Respectfully submitted,

/s/ Edwin W. Rubis
Reg No 79282-079
FCI Talladega
PMB 1000
Talladega, AL 35160

Dated: April 29, 2023

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