

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

RICKY ESCOBEDO — PETITIONER
(Your Name)

vs.

KATHERINE R. GUTIERREZ et al — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE 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 U.S.P. POLLOCK
(Address)

POLLOCK, LOUISIANA 71467-4050
(City, State, Zip Code)

(Phone Number)

LIST OF PARTIES

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

[X] 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 follow: KATHERINE R. GUTIERREZ, Special Agent of the Federal Bureau Of Investigation; BRIAN J. ONOFRE, Special Agent with (TFO) of the Federal Bureau Of Investigation.

QUESTION(S) PRESENTED

1. Whether petitioner's motorvehicle traffic stop by a third-party (State ,Local) under federal color of law was the result of a denial of his Fourth Amendment right that protects individuals from unreasonable search and seizure of their person and property; and Fifth Amendment right of due process?
2. Whether the execution of a search warrant of petitioner's residence/home was the result of a denial of his Fourth Amendment right to be secure in their persons,house,papers and effects, and Fifth Amendment right of due process?
3. Whether petitioner was denied the Sixth Amendment right to counsel has attached government intrusion into attorney-client relationship?
4. Whether prejudicial error resulted from the courts failure to apply the exclusionary rule where federal courts may use any avilable remedy to make good the wrong done?

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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

[X] reported at LEXISNEXIS GROUP; 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[] is unpublished.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[] is unpublished.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 April 7, 2021.

[] 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 July 7, 2021 (date) on December 7, 2021 (date) in Application No. A _____.

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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Title 28 U.S.C 1331 provides a federal court with jurisdiction to decide cases involving federal question. In *Bivens v. Six Unknown Named Agents Of The Federal Bureau Of Narcotics*, 403 U.S. 388, 91 S.Ct 1999, 29 L.Ed. 2d 619 (1971). the Supreme Court held a civil rights action may be brought pursuant to 1331 against federal agents or employees for violation of the petitioner's Fourth Amendment rights where the agents entered and searched his residence without a warrant. Over the next decade, the Court also fashioned new causes of action under the Fifth Amendment, see *Davis v. Pass-man*, 442 U.S. 288, and the Eighth Amendment, see *Carlson v. Green*, 446 U.S. 14.

STATEMENT OF THE CASE

Reconsideration of petitioner's Summary Judgment motion filed in the lower courts where it was abruptly dismissed as moot. And his Amended Complaint is dismissed without prejudice seeking dismissal of his criminal conviction. Whether the appellate court for the Fifth Circuit had seriously misread or misapplied petitioner's handwritten letter Notice Of Appeal. (dkt.#21 Appendix B)

Petitioner's 1983 complaint purports to sue F.B.I Special Agent Katherine R. Gutierrez and Brian J. Onofre alleging; They ordered San Antonio Police officers to search and seize petitioner's motorvehicle without probable cause. On approximately October 6, 2016 and April 28, 2017 that describes in their elaborate summary report (Discovery) on the access road of Loop 1604 between Shanefield road and Culebra road. Wherein both agents being present had requested for a patrol cruiser in the vicinity to assist them in their investigation to conduct unreasonable traffic stop violation after exiting Highway 1604 into Blanco road. Reason being vehicle not registered in petitioner's name but under spouse.

Moreover petitioner argues the search and seizure of his residence/home on May 19, 2017 where federal agents entered the premises without a valid warrant. According to testimony given by respondent Gutierrez, during a suppression hearing of co-defendant U.S.A v. ARTHUR LUIS GALLEGOS held on September 5, 2017, that organized law enforcement officers into teams and assigned each team to a residence [Acted under the claim of federal authority] ordered the search of petitioner's residence/home on May 19, 2017 pursuant to a warrant presumably signed by U.S Magistrate Judge Henry J. Bemporad.

However in petitioner's bond hearing on May 24, 2017 before the same U.S Magistrate Judge Henry J. Bemporad (transcript original of dkt.#1850-case number 5:17CR-391-XR) where respondent Gutierrez testified under oath, that contradicts their findings and lack of probable cause considering the same Judge, respondent claimed who signed off on petitioner's residence to be searched, had opposed the search warrant. In fact, Judge became concern when there was no criminal history of petitioner that would implicate him with illicit drugs or firearms in his past record.

On his final claim on December 13, 2017 while in federal custody as a pretrial detainee they searched and seized attorney-client privilege information from petitioner. And as a result to their actions petitioner's counsel Jeff Mulliner had filed multiple motions being brought before a District Judge Xavier Rodriguez on March 19, 2018.(transmit original dkt.#1149-transcript case number 5:17CR-391-XR) One of the issues was the seizure of documents from inmates and that there had been a taint team set up to review the documents to determine if any of the information provided to the attorney's in this case. Since said incident had occurred at a GEO-Group facility in San Antonio, Texas, where petitioner took the proper steps by exhausting all remedies through their administrative grievance process. Which all documents of grievance, affidavit and relevant evidence were added in petitioner's summary judgment filed on January 14, 2020.

REASONS FOR GRANTING THE PETITION

Based upon the preponderance of evidence submitted to the lower courts in petitioner's Amended Complaint after he was ordered to Show Cause. Whereas the Magistrate Judge Elizabeth Chestney newly assigned, due to the disqualification of prior Judge Henry J. Bemporad being named in his civil action. Thereafter the review and analysis of documents filed in response to Show Cause by petitioner where Judge filed a order on September 10, 2019 decided its merit to proceed forward placing it back into docket rotation to be heard before the court. Simultaneously to conceal the order, the opposed respondents immediately filed a protective order to seal Judge's order and later filing an order Case No Longer Referred To Judge Elizabeth Chestney.

Despite the unusual orders filed by U.S Attorney's for respondents, petitioner then filed his motion for Summary Judgment since providing his burden of production to the courts. In which, they failed to properly respond to petitioner's motion but instead, had the courts dismiss it as moot. Now, the federal question remains, whether the lower courts misapplication of law reflecting a clear misapprehension of summary judgment standards in light of our precedents. And if the Appeals Court For The Fifth Circuit misread or misapplied petitioner's Handwritten Letter Of Appeal (dkt.#21) filed to the lower courts on April 30, 2020 then transmitted to the appeals court. Furthermore was it malicious or in bad faith for the lower courts, after petitioner filed for his transcript order of relevant evidence (dkt.# 1850 and DKT#1149) being transmitted to the appeals court, where they failed to promptly transmit documents until a month later after the CIRCUIT JUDGES order and opinion had been handed down. With that being said, hope and pray all this taken into consideration so that the highest court can make a honest fair decision.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Ricky Deobrdo

Date: 2/23/24