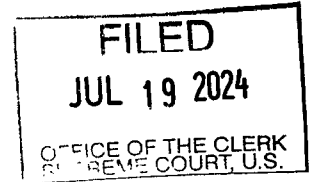


24-5459

No. _____

ORIGINAL



IN THE

SUPREME COURT OF THE UNITED STATES

In Re: **RAUL CHAVEZ**

ON PETITION FOR A WRIT OF HABEAS CORPUS

PETITION FOR WRIT OF HABEAS CORPUS

RAUL CHAVEZ

(Your Name)

P.O. Box 8000

(Address)

Anthony, NM 88021

(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

- 1) Can lower courts, delay and deny access to Habeas Corpus, and maintain Constitutional adherence to the privilege guarantee?
- 2) Can a District court proceed with a “case” against a person, without an affidavit supported complaint being filed.
- 3) Can a lower court hold Article III jurisdiction, over non evidenced ‘controlled substances’?
- 4) Is a Grand Jury premeditated, for the purposes of protecting public citizens right under the Constitution, as outlined in Rule 6(a)’s opening line?
- 5) Is a court allowed to transcend the speedy trial rights provisions of law, by 7 years?
- 6) If public interests were the pursuit of the United States, why is there NO restitution in Petitioner’s case? Why no tax evasion charges? Why no actual denotation of community damages?
- 7) Most significantly, can the United States force a defendant into a second testing of criminal accusations, without violating the double jeopardy provisions of the US Constitution?
- 8) Did the 2nd Circuit commit Constitutional – and statutory – error, when VACATING and remanding without prejudice, a person who was denied his right to speedy and fair trial?

LIST OF PARTIES

- ☒ All parties in the caption of the case in 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

- 1)
- 2)
- 3)

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF HABEAS CORPUS

Petitioner respectfully prays that a writ of habeas corpus issue.

JURISDICTION



For cases from **federal courts**:



No petition for rehearing was timely filed in my case.



The jurisdiction of this court is invoked under 28 U.S.C. section 2241, 2242, 2243.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Constitutional Provisions at Contest:

- 1) Article III Sec. 2, cl. 1.
- 2) Article II
- 3) 4th, 5th, 6th, 8th, 10th and 14th Amendments.

Statutes at Contest:

- 1) 18 USCS 3041, 3044, 3046, 3047, and 18 USCS 3231.
- 2) 28 USCS 519, 528, 530(B), 530(C)(b)(4), 533 (1), and 547(1).
- 3) 21 USCS 841, 846 and 853.

**STATEMENT OF THE CASE
& RULE 20.4(A) STATEMENT**

Extensive review has revealed Constitutional, Statutory, and Procedural violations which prove all Investigation and Prosecution efforts pointed to a non-justiciable trial before an illegal Court forum which ultimately produced an unlawfully Void Judgment. Accordingly, petitioner is detained and imprisoned in violation of the Constitution and Laws of the United States.

The Government lacked the necessary “Standing” to seek a criminal charge over a matter , outside of federal Exec./Judicial, jurisdiction’s. Undeterred, Government Prosecutors proceeded to ignore Constitutional Protections, violate Statutory Laws, evade Federal Rules of Criminal Procedure, and manufacture invalid Theories of Law and criminalize an innocent man, interfering with his career, reputation and business. See Professional Real Estate Investors, Inc. V. Columbia Pictures Ind. Inc., 508 US 49, 113 S.Ct, 1920 (1993), also termed “Sham Lawsuit” or “Sham Action” (Blacks Law, Page 25, 10th Edition).

Wanting in the requisite standing to Sue, The United States Executive Branch Officer(s) intimidated their way past all limiting Legislation, Authorities and Offices – both Executive and Judicial – effectively “collapsing the Separation of Powers”. Malfunctioning under the Color of Article II Authority, Executives thrust the Court to go forward ‘Ultra Vires’, directly in violation of Art. III standing principles of redressability.

28 USC section 2241(c)(1) and (c)(3) speaks straightaway to such circumstance:

“[Petitioner] is in custody under the color of authority of the United States and in violation of the Constitution and Law of the United States”.

To this element, a court of competent Jurisdiction is: "A court that has the Power and Authority to do a particular act" (Blacks Law, 10th Edition). Nonexistent of such Constitutional Power, any Court is thus, unqualified. (in contrast this court holds Habeas Corpus Jurisdiction Competency)

18 USC Section 3041 permits judicial Power to extend for the purpose of bringing a Defendant before a Court of competent Jurisdiction only for "*An offense against the United States,*" and to be held to answer for supposed, criminally intended, Legal harms against the United States Constitutionally recognizable rights. Right's established and protected under federal Law.

Since F.R.Crim.P Rule 3 – 'The Complaint' initiates any criminal process when the Plaintiff seeks to arrest the defendant upon "probable Cause" (4th Amendment), and then to Trial Test a "Cause" of action and prove the "Probability" of criminal intent. Such rules *shall* be followed. Otherwise, procedural due process falls off.

When the district court was found to have violated Petitioner's rights to trial testing, he had been held illegally detained for over 8 years. The DOJ persevered into a trial testing forum – once again lacking in jurisdiction - without any evidence of Controlled Substances, and on the far side of the speedy trial testing rights while also defying double jeopardy protections.

Without properly accessing Article III judicial powers, any Federal Judicial Officer becomes: "A self appointed Tribunal – in which the principles of Law and Justice are disregarded, perverted, or parodied." (Definition #2)

This Definition above defines a "Kangaroo Court". {See Blacks Law, Page 314, 10th Edition.}

Accordingly, Petitioner respectfully requests this Honorable Court grant Petitioner the Writ of Habeas Corpus.

RULE 20.4 (a) STATEMENT

Pursuant to Rule 20.4(a):

“A petition seeking a Writ of Habeas Corpus shall comply with the requirements of 28 USC Section 2241 and 2242, and in particular with the provision in the last paragraph of Section 2242, which requires a statement of the “reasons for not making application to the district court of the district in which the applicant is held.” [] To justify the granting of a Writ of Habeas Corpus, **the Petitioner must show that exceptional circumstances warrant the exercise of the Court’s discretionary powers, and the adequate relief cannot be obtained in any other form or from any other court.**”

NOTICE: This rule of law goes against Miranda V. Arizona, 384 US 436 (1966):

“Where rights secured by the constitution are involved, there can be no rule making or legislation which would abrogate them.”

Article VI’s Supremacy Clause mandates that ANY Court SHALL issue the Writ of Habeas Corpus granted in Article I, Section IX, Clause II.

Petitioner has in fact, made application for Habeas Corpus relief to the Fifth Circuit where Petitioner is currently being held. (See: EP-24-CV--KC). Judge Cardone utilized the same incorrect standard of law as outlined in the Rule 20.4(a) statements above. The lower Court refused to issue a ‘Show Cause’ order and summarily heads off the application without a Hearing. Instead, the Court erred in the Law by speaking to 28 USC Section 2255 as a prospect of resolving the illegal detention. Accordingly, the 5th Cir. has a “NON-FINAL” decision before it, lacking in review jurisdiction. (See Catlin v United States)

In ambivalence with this Constitutional Right was the District Courts abuse of discretion over the non-discretionary Writ of Habeas Corpus. The Court transcended its discretion by connoting that the Constitutional privilege of the Writ of Habeas Corpus is not after all – a prerogative. Effectively abolishing access to a Constitutional privilege (i.e. - The Great Writ of Habeas Corpus). As noted, this matter was appealed to the Fifth Circuit Court of Appeals, wherein Petitioners Right to convenient

relief is now further postponed and unavailable. This Court must take appropriate action, to cure this illegal detention.

WHY NO 2255?: A 28 USCS 2255 Motion, is an inadequate and ineffective remedy because it only covers “errors in a Sentence” (“in the nature of the ancient Writ of Error Coram Nobis”. See Advisory Committee Notes to 28 USC Section 2255). This does not claw-back to the Constitutional, Statutory, and Procedural violations which allowed the prohibited investigation and multiple/subsequent prosecution’s. By pushing an Article III Judge – who lacked competent Jurisdiction – the court became ‘Ultra Vires’ and hence issued a Void Judgment.

In the end, Section 2255 is a discretionary Motion continuing a legal Criminal Case. This tool does not provide directional authority for the District Court to orbit back, to an invalid trial testing and jury conviction. In fact no mention of Conviction infirmity relief is ever spoken of by the Congressional legislation.

How does one vacate a VOID judgment? You cannot, for all authorization is absent.

In opposition, Section 2241 mandates release of a Prisoner when facts alleged show he is in custody in violation of the Constitution or the Laws of the United States. Accordingly, any 28 USCS 2241 authority is not discretionary, instead history reveals, it is mandatory. Habeas also clutches no time limitations, where 28 USCS 2255 does.

NOTICE: Lower court failed to provide a “Final Decision” in the pending Habeas Case, thus in effect barring access to the Advantage of Habeas Corpus. This was raised to the 5th Circuits attention. Now raised to this court as well.

GROUNDS FOR GRANTING THE PETITION

GROUND ONE: Petitioner is being detained and imprisoned in violation of the 18 USC Section 4001 which states: “(a) No citizen shall be imprisoned or otherwise detained by the United States except pursuant to an Act of Congress.” The tailing Information outlines the ‘Acts of Congress’ (statutes, Procedures, Rules of Criminal Procedure) which were violated by the Government to criminally transgress Petitioner’s Constitutional Rights, resulting in the illicit imprisonment of this U.S. Citizen.

The U.S. Government Criminal prosecution lacked any recognizable basis (“Standing”) to bring forward a ‘Case’ or to seek out a ‘Controversy’ in the Legal Affairs of a Private business. Pursuant to F.R.Crim.P Rule 6(a)(1) **“When the Public interest so requires, the Court must order that one or more Grand Juries be summoned.”** Clearly, there was no Public interest in the Legal Affairs of a Private State Licensed Corporation nor management over it. The Government lacked Standing because, as the data reveals, Petitioner committed no “Offense against the United States”. The threshold the Government must overcome to acquire statutory authorization, pursuant to an ‘Act of Congress,’ (18 USCS 3041/3231) is a legally recognized injury to legal rights. In Petitioner’s ‘Case’ the Government lacked in both Congressional and Constitutional authority to either investigate, pursue or Convict the Petitioner. The Government never held that requirements satisfaction.

GROUND TWO: Petitioner is detained and imprisoned in violation of the Executive’s failure to yield Statutory Limitations to investigate and prosecute ONLY for “Offenses against the United States.” Accordingly, the Attorney General’s investigatory and prosecutor authorities are identified in 28 USC Sections 519, 528, 530(B), 530(C)(b)(4), 533(1), and 547(1). Illegal importation was never charged, as necessary to satisfy Controlled Substances violations, at the federal level. No drugs existed.

The Government’s over reach and failures of Supervisory Authority,’ oversight as Statutorily mandated in accordance with ‘Acts of Congress,’ permitted unauthorized intrusions into the Private

(sans Public) Affairs of private Business. General Police powers do not apply, without charges and evidence of Illegal, federally offense conducts. (Ie. Drug Importation/Sales)

GROUND THREE: Petitioner is being delayed and confined for alleged conduct that is not an “Offense against the United States.” It’s not an offense against anyone, as the reader will see.

Accordingly, the Government possessed ZERO Constitutional or Statutory authority to get rid of Tenth (10th) Amendment and Fourteenth 14th Amendment Protected Rights of Petitioner and his Business.

The Government possessed NO right to criminalize an innocent man. Instead, the Government is evidenced to have interfered with Interstate and Foreign Commerce Rights belonging to Petitioner and his Businesses, thru effectively shutting down his business, without any evidence of probable cause.

GROUND FOUR: Petitioner is being detained and imprisoned in violation of 18 USC Section 3001 – ‘Procedure governed by the Rules.’ The standard for commencing a Criminal Process begins with F.R.Crim.P Rule 3, which accesses judicial power, thru 18 USC Section 3041 – for an “Offense against the United States.” Only for, the Government refusals to apply such Rule of Law, Petitioner was taken through illegal investigations and unconventional Proceedings by a tribunal in violation of 18 USC Section 3044, which governs F.R.Crim.P Rule 3 - ‘The Complaint Rule.’ The prosecution failed to File an Affidavit Supported Complaint outlining ‘Probable Cause’ basis, in accordance with the Fourth Amendment. Records reveal that there is NO Rule 3 Complaint nor Rule 4 Arrest Warrant Issuance or Return. What did the Grand Jury accuse Petitioner of, without any evidence of criminal conduct?

GROUND FIVE: Petitioner is detained and imprisoned in violation of the Fourth (4th) Amendment and 18 USC Sections 3046 and 3047, which require a Warrant for Arresting purposes – pursuant to F.R.Crim.P Rules 3, 4, and 9. Applicant has never been lawfully arrested, yet the Prosecution's abidance with each of these Rules is mandated. Pursuant to Rule 9, a Rule 6 "Indictment" SHALL be supported by a Rule 3 Complaint and Rule 4 Warrant. No such requirements were quenched.

18 USC Section 3047 expressly instructs the prosecution that "A Warrant SHALL be necessary to commit [Defendant] for Trial." None of these Rules of Criminal Procedure, which are established by 'Acts of Congress' (for the protection of the citizens liberty rights) were ever complied with. Here, the prosecution is shown to have failed to conform with the Federal Rules of Criminal Procedure and the Statutory Law's which implement those Rules. Worse, the prosecution trespassed upon Petitioner's Fourth Amendment Rights and Protections that these Statutory Laws and Federal Rules of Criminal Procedure stand upon.

Without adhesion to the Rules of Law and Petitioner's Constitutional Rights Protections under the Fourth Amendment, the Prosecution and Article III Court officers desecrated 18 USC Section 3041 and incarcerated Petitioner without Authorization and Dominion to do so. As a result, Petitioner remains incarcerated in violation of the Constitution and Laws of the United States

GROUND SIX: 21 USCS 846 is not a predicate offense. It fails to provide the elements testing necessary to establish conspiracy conduct, offensive to the US Government. RICO is necessary to invoke 18 USCS 982 criminal forfeitures. RICO was never charged, while the framework of prosecution was clearly "Organized Crime" based.

Such reliance failed to reach the appropriate subject-matter jurisdiction as required under 18 USCS 3231. The trial court lost subject matter jurisdiction upon the Indictments handing down.

GROUND SEVEN: Petitioner is being detained and imprisoned in violation of the Fifth and Sixth Amendment protections of the United States Constitution. All aforementioned Grounds prove that Petitioner is and has been, deprived of his Liberty and property, without Procedural Due Process of Law. Without arrest, indictment, grand jury and proper notice, All process was illegal.

The petition for a writ of habeas corpus should be granted.

Respectfully submitted,


Raul Chavez

Date: 7-11-2024

cc: Harmeet Dhillon
177 Post St
San Francisco, CA 94108

Sidney Powell
2911 Turtle Creek Blvd
Suite 300
Dallas, TX 75219

Charlie Kirk
Turning Point USA
4940 E Beverly Rd
Phoenix, AZ 85044