

No. 24-5600

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED

SEP 12 2024

OFFICE OF THE CLERK

ABIMAE L NARVAEZ-ROSA — PETITIONER
(Your Name)

vs.

UNITED STATES OF AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

ABIMAE L NARVAEZ-ROSA
(Your Name)

P.O. BOX 779800
(Address)

MIAMI, FLORIDA 33177
(City, State, Zip Code)

FEDERAL INSTITUTION
(Phone Number)

QUESTION(S) PRESENTED

Whether the United States court of Appeals for the First Circuit erred in rejecting Narvaez-Rosa's claim of a procedural sentencing error, when the United States District Court and the United States Government Breach the Petitioners Plea Agreement that was accepted by the United States District of a sentence of 120 months as to Count One in the indictment and 96 month s as to Count Two of the indictment to total 216 months of incarceration. Petitioner was ultimately sentence to 260 months of incarceration.

LIST OF PARTIES

☐ All parties appear in the caption of the case on 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:

Petitioner (Defendant below) is Abimael Naravaez-Rosa

Respondent is the United States of America

RULE 29.6 STATEMENT

Petitioner Abimael Naravaez-Rosa is an individual with no corporate affiliation, no parent corporation, and no public held corporation owning 10% or more of its stock.

RELATED CASES

United States of America v. Abimael Narvaez-Rosa - Court of Appeals for the First Circuit - Case Number: 22-1237 - Dated: 06/12/2024.

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Case Number: 17-622 - Plea Agreement

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No. 22-1237 - United States Court of Appeals for the First Circuit.

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Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

[X] For cases from federal courts:

☐ reported at Unpublished Opinion; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

[X] reported at Petitioners Plea Agreement; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

[] 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 06/12/2024.

☒ 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 _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

The United States Court of Appeals for the First Circuit entered its judgment affirming Petitioner's sentence in Criminal Case Number. 17-622 on June 12, 2024.

☐ 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

The Fifth Amendment to the United States Constitution Provides:

The Constitutional provision under the United States Constitution's "Due Process" provision that prohibits the United States Government from unfairly or arbitrarily depriving a person, of life, liberty, or limb. In the Petitioner's current motion to this Court, the Fifth Amendment applies as the Petitioner has been prosecuted by the Federal Government.

The Fifth Amendment of the United States Constitution further establishes that the conduct in a legal proceeding according to established rules of principles for the protection and enforcement of private rights, including notice and the right to a fair hearing and notice to be heard before a tribunal with the power to decide the case.

STATEMENT OF THE CASE

- 1.) Petitioner Narvaez-Rosa is currently incarcerated at the Federal Correctional Institution in Miami, Florida.
- 2.) On May 07, 2021, Petitioner Narvaez-Rosa entered into a Plea Agreement with the United States of America,
- 3.) The United States agree to a sentence of imprisonment of 120 month of Count One of the Indictment and a 96 month as to Count to of the Indictment or be served consecutively to any other sentence, for a total sentence in Criminal Case 17-622 of 216 month of imprisonment.
- 4.) Petitioner was ultimately sentence to a term of imprisonment for Count One of the Indictment to 180 months and for Count Two of the Indictment 80 months both Counts to run consecutively.
- 5.) The United States Court of Appeals "Affirmed" the Petitioner's sentence finding there was no procedural sentencing error, and the district court was not required to either accept the joint recommendation in the parties plea agreement.
- 6.) Petitioner now seeks Writ of Certiorari to this United States Supreme Court.

REASONS FOR GRANTING THE PETITION

This Court should grant certiorari review the proceedings below, reverse the judgment of the Court of Appeals for the First Circuit, and "Remand" the Case to the district court with instructions to vacate the Petitioner's conviction in Criminal Case Number. 17-622 and resentence him in accordance with the "Legal and Binding Contract" that was construed by the United States and Accepted by the United States District Court to 120 months as to Count One of the Indictment and to 96 months as to Count to of the Indictment.

Plea bargains are essentially contracts and the traditional principles of contract law guide the interpretation of the terms and performance of a plea agreement. Puckett v. United States, 556 U.S. 129, 137 (2009); United States v. Brown, 31 F.4th 39, 50 (1st Cir. 2022). The Application of traditional contract law principles allows the court to interpret plea agreements and evaluate the parties performances of duties thereunder. Id. at 50. When the government enters into a plea agreement with a defendant, the court should hold the government to the most meticulous standards of both promise and performance because a defendant who enters into a plea agreement waives fundamental constitutional rights. United States v. Marin-Echeverri, 846 F.3d 473, 478 (1st Cir. 2017). The prosecutors are duty-bound to carry out both the letter and spirit of the governments plea agreement and they have a concurrent and equally solemn obligation to provide relevant information to the

sentencing court ensuring that all relevant information is provided to the court related to the promises made in the plea agreement. United States v. Almonte-Nunez, 771 F.3d 84, 86, 90 (1st Cir. 2014). This includes the full and accurate information about the offense and the offender. Id. at 86. With this concurrent obligation, the court has recognized that general principles are that the government has a duty to provide to the court reliable information relevant to sentencing and the fact that certain factual omissions, helpful to a defendant, may be an implicit part of the bargain in a plea agreement. United States v. Davis, 923 F.3d 228, 327 (1st Cir. 2019) (quoting United States v. Miranda-Martinez, 790 F.3d 270, 274 (1st Cir. 2015)). Overall, the government has a duty to stand by the plea agreement and provide that information to the court at sentencing. United States v. Ubiles-Rosario, 867 F.3d 277, 283 (1st Cir. 2017) (quoting United States v. Cruz-Vazquez, 841 F.3d 546, 549 (1st Cir. 2016)). The First Circuit's binding case law specifically states that prohibits a explicit repudiation of the governments assurance, but must in the interest of fairness be read to forbid end-runs around them. United States v. Saxena, 229 F.3d 1, 6 (1st Cir. 2000).

In the present case before this Court, this is not the way ordinary contracts work and it is the principles of contract law that governs plea agreements and the traditional principles of contract law and the terms and performance of the plea agreement entered by the Petitioner and the government have been breached. Puckett v. United

556 U.S. 129, 137 (2019); Garza v. Idaho, 139 S. Ct. 738, 744 (2019). Here the Petitioner, a first time offender, with no criminal history waived a panoply of his constitutional rights in order to receive the benefits of the plea bargain of a sentence of 120 months as to Count (1) of the indictment and a consecutive sentence of 96 months of Count (2) of the indictment to total 216 months. A far cry from the 260 month sentence imposed by the district court. The Petitioner clearly relied on the spirit of the plea agreement in his decision whether to plead guilty or putting the government to the burden of a trial by jury.

CONCLUSION

Therefore, in light of the foregoing, the Petitioner asks this Honorable Court to "Grant Certiorari" as the United States has breached the plea agreement and the United States District Court followed suit. The Petitioner asks this Honorable Court to "Vacate" this sentence and "Remand" this case back to the District Court to enter a Consecutive sentence of 120 months as to Count (1) of the Indictment and 96 months as to Count (2) of the indictment to total 216 months of incarceration as the parties had agreed under the "Spirit of the Plea Agreement" which was a legal and binding contract.

Respectfully Submitted,



Abimael Narvaez-Rosa

Dated: September 12, 2024

APPENDIX "A"