

FILED

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OFFICE OF THE CLERK
SUPREME COURT, U.S.

ORIGINAL

24-5887
No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

Christian Romero pro se — PETITIONER
(Your Name)

vs.

United States of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

District of Columbia Court of Appeals

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Christian Romero, Reg. #76294-007
(Your Name)

FCI Forrest City Low, P.O. Box 9000
(Address)

Forrest City, Arkansas 72336
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

I. The Supreme Court has held that the Due Process Clause under the 14th Amendment "incorporates" rights from Romero's first 8 Amendment rights, while Section 5 of the 14th Amendment "abrogates" Romero's 11th Amendment right. Romero asserted his Sovereign Immunity rights under the first 11 Amendments in a post-arrest interview, but that claim of immunity was ignored throughout his case. Are Romero's 9th and 10th Amendment rights; his 5th Amendment Due Process Clause; and his Article 4 Section 2 Privileges and Immunities Clause, all violated by the Supreme Court's interpretations about his Sovereign Immunity rights?

II. The Constitution states that "The Privilege of the Writ of Habeas Corpus shall not be suspended..." Romero initiated a habeas action asserting several constitutional violations in the D.C. Superior Court and then the D.C. Court of Appeals. However, the petition was denied due to a local rule which prohibits second or successive habeas petitions. Is a local rule allowed to make habeas proceedings unavailable and does a court rule have the authority to allow meritorious constitutional violations to have no available remedy?

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:

RELATED CASES

- United States v. Christian Romero, #2016-CF1-010129, D.C. Superior Court. Judgment entered 09/14/2018.
- Christian Romero v. United States, #2024-CO-159, D.C. Court of Appeals. Judgment entered 08/15/2024.
- Christian Romero v. United States, #2022-CO-656, D.C. Court of Appeals. Judgment entered 03/13/2023.
- Christian Romero v. United States, #2018-CF-999, D.C. Court of Appeals. Judgment entered 01/06/2022.

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TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
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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 _____ 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 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.

[X] For cases from state courts:

The opinion of the highest state court to review the merits appears at Appendix F to the petition and is

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

The opinion of the D.C. Superior court appears at Appendix E to the petition and is

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

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

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 _____.
S

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 08/15/2024.
A copy of that decision appears at Appendix E.

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 09/26/2024 (date) on 11/26/2024 (date) in Application No. ___ A _____.
S

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- U.S. Constitution Fourteenth Amendment Section 1 and Section 5.
- U.S. Constitution Ninth Amendment.
- U.S. Constitution Tenth Amendment.
- U.S. Constitution Fifth Amendment Due Process Clause.
- U.S. Constitution Article 4 Section 2 Clause 1.
- U.S. Constitution Article 1 Section 9 Clause 2.
- U.S. Constitution Article 6 Clause 2 Supremacy Clause.
- D.C. Code Section 23-110 Rule 9(b).
- Essentially, U.S. Constitution first eleven Amendments.

STATEMENT OF THE CASE

On March 29, 2017, a grand jury indicted Appellant Christian Romero for second degree murder while armed, in violation of 22 D.C. Code Section 2103 and Section 4502. A jury trial was held from February 12, 2018 until February 23, 2018. On February 23, 2018 the jury convicted Romero of second degree murder while armed.

On September 14, 2018, Romero was sentenced to twenty-four years imprisonment and five years supervised release. He filed a timely notice of appeal on September 24, 2018.

On January 6, 2022, the D.C. Court of Appeals affirmed Romero's conviction for his Direct Appeal.

Christian Romero was charged with and tried for stabbing Dimas Fuentes-Lazo to death during a struggle on the street. At trial, there was no dispute that (1) on the night of April 23, 2016, Romero was involved in a struggle, with Fuentes and his friend Mario Rosales, on the 800 block of Kennedy Street, NW; (2) During that struggle, Fuentes suffered multiple sharp-force injuries, including one stab wound; and (3) Fuentes died as a result of these injuries.

The question at trial, however, was whether Romero was the aggressor and committed murder, or instead, whether he acted in self-defense.

On June 2, 2020, while his direct appeal was pending, Romero filed a motion pursuant to D.C. Code Section 23-110. Romero claimed that the government and D.C. Superior Court lacked jurisdiction over his person. The government opposed Romero's Section 23-110 motion, as well as noting that Romero had waived his jurisdictional argument by failing to raise it on direct appeal, and had not attempted to show cause and prejudice for his failure to do so.

On March 4, 2022, Judge McKenna denied Romero's Section 23-110 motion. See APPENDIX B.

On August 10, 2022, the D.C. Superior Court docketed Romero's second Section 23-110 motion, in which he again challenged the court's jurisdiction. On the same day, Judge McKenna denied the motion on the grounds that it was a second or successive motion presenting "identical issues" as Romero's first Section 23-110 motion. See APPENDIX C.

Romero noted an appeal, but the D.C. Court of Appeals dismissed the appeal in light of Romero's failure to file a brief and limited appendix. Order, Christian Romero v. United States, No. 22-CO-656 (D.C. March 13, 2023). Romero did not challenge the dismissal order. See APPENDIX D.

On January 3, 2024, the D.C. Superior Court docketed and denied Romero's third Section 23-110 motion, on the grounds that it was a second or successive motion, in which Romero once again challenged the court's jurisdiction. See APPENDIX E.

Romero appealed the decision of his third Section 23-110 motion, and the D.C. Court of Appeals affirmed the decision of the D.C. Superior Court based on the grounds that it was a second or successive motion. Order, Christian Romero v. United States, No. 24-CO-159 (D.C. August 15, 2024). See APPENDIX F.

REASONS FOR GRANTING THE PETITION

I. ARGUMENT REGARDING SOVEREIGN IMMUNITY:

a. HOW THIS ISSUE RELATES TO ROMERO'S CASE.

On Wednesday, June 29, 2016, Romero asserted his Sovereign Immunity rights under the first 11 Amendments of the U.S. Constitution during the post-arrest interview for this case. Unfortunately, there is no separate transcript for said post-arrest interview, even though it is recorded in the Discovery for Romero's case. Romero does not have in his possession the CD-ROM which has said post-arrest interview recorded, but proof of its existence is given in APPENDIX A.

In the Wednesday, June 29, 2016 post-arrest interview Romero exercised his first 11 Amendment rights by NOT CONSENTING to the action held against him. Romero stated something along the lines of "I do not understand to the charge..."; "I do not understand to the incarceration..."; "I do not understand to these papers..."; "I do not understand to this interrogation..."

Romero used the word "understand" in its legal form, meaning "consent." In the Black's Law Dictionary, the definition for understanding states: "understanding, n. (bef. 12c)... 3. An agreement, esp. of an implied or tacit nature."

In Alden v. Maine, 527 U.S. 706, 784 (1999), Justice Souter wrote, "[that the King is sovereign and no court can have jurisdiction over him] ... laws derived from the pure source of equality and justice must be founded on the CONSENT of those, whose obedience they require. The sovereign, when traced to his source, must be found in the man." Alden 527 U.S. at 773, "It is inherent in the nature of sovereignty, not to be amenable to the suit of an individual without its consent." Alden 527 U.S. at 713-14, proves Romero is Sovereign, and proves his rights grant him Sovereign Immunity against Federal Government Encroachment, Justice Kennedy wrote,

"Any doubt regarding the constitutional role of the States as sovereign entities is removed by the Tenth Amendment, which, like other provisions of the Bill of Rights, was enacted to allay lingering concerns about the extent of the national power. The Amendment confirms the promise implicit in the original document: 'The powers not delegated to the United States by the Constitution ... are reserved to the States respectively, or to the people.' U.S. Const. Amdt. 10."

The 10th Amendment says that powers/rights are reserved to the states or to the people. Also, in Alden 527 U.S. at 759,

"Although the Constitution begins with the principle that sovereignty rests with the people, it does not follow that the National Government becomes the ultimate, preferred mechanism for expressing the people's will. The States exist as a refutation of that concept. In choosing to ordain and establish the Constitution, the people insisted upon a federal structure for the very purpose of rejecting the idea that the will of the people in all instances is expressed by the central power, the one most remote from their control."

b. THE PROBLEM.

Romero's assertion of his Sovereign Immunity right not to consent to the action against him was ignored throughout his case. As mentioned before, the right to not consent to suits or actions is protected by the first 11 constitutional Amendments.

However, the U.S. Supreme Court has ruled that the Due Process Clause of the 14th Amendment fully incorporates, against states, particular rights contained in the first 8 Amendments. Supreme Court has incorporated almost all provisions of Bill of Rights. Incorporated Bill of Rights protections are to be enforced ^{personal} to same standards that protect those rights against federal encroachment. See McDonald v. Chicago, 561 U.S. 742 (2010).

Furthermore, the Supreme Court has ruled that Section 5 of the 14th Amendment grants to Congress the power to enact "appropriate legislation" that abrogates the states' 11th Amendment immunity from suit in federal court. See Alden; see

also, Board of Trustees v. Garrett, 531 U.S. 356 (2001); plus see, Nevada Department of Human Resources v. Hibbs, 538 U.S. 721 (2003).

c. THE TERM "THE STATES" MEANS/REPRESENTS "THE PEOPLE."

In the Supreme Court cases cited above, the 14th Amendment is construed by the Federal Government to "incorporate" and "abrogate" several provisions of the first 11 Amendments against the "states." The term "states" in this context means/represents the "people," of which Romero is a part. The definition for "states" found in this law dictionary, Blackstone Law Glossary Legal Assistant/Paralegal Course (2011 Ed.), says:

"STATE(state). An organization of people for political purposes, occupying permanently a fixed territory and possessing an organized government capable of making and enforcing law within the community."

Also, Justice Wilson's opinion in Chisholm v. Georgia, 2 Dallas 419, 455 (1793), he wrote that "' those communities and assemblages of men, which, lawfully associated, are denominated states.' ... By a state I mean, a complete body of free persons united together for their common benefit."

d. THE SOLUTION.

The following are the constitutional provisions being violated by the Federal Government's interpretations of the 14th Amendment "incorporating" and "abrogating" Romero's first 11 Amendment Rights:

- "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people." U.S. Constitution 9th Amendment.

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the People." U.S. Constitution 10th Amendment.

"No person shall ... be deprived of life, liberty, or property, without due process of law." U.S. Constitution 5th Amendment Due Process Clause.

"The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States." U.S. Constitution Article 4 Section 2 Privileges and Immunities Clause.

In the wording of the 9th Amendment, certain rights listed in the Constitution, like the 14th Amendment, shall not be construed to deny or disparage other rights retained by the people, like the first 8 and 11th Amendment rights. Also, with the wording of the 10th Amendment, all powers in and outside the text of the Constitution are reserved to the states or to the people. These powers are not delegated to the U.S. Federal Government. Rights like those found in the first 11 Amendments belong to the states or to the people as protections from Federal Government encroachment.

In Marvin v. Trout, 199 U.S. 212, page 160 (1905), "... rights guaranteed to him by the 5th, 6th, 7th, 8th, or 9th Amendment referred to, for these were not intended to limit the powers of the states in respect to their own people, but to operate on national government only." Also, in Alden 527 U.S. at 739,

"[I]n view of the Tenth Amendment's reminder that powers not delegated to the Federal Government nor prohibited to the States are reserved to the States or to the people, the existence of express limitations on state sovereignty may equally imply that caution should be exercised before concluding that unstated limitations on state power were intended by the Framers. ... The Federal Government, by contrast, 'can claim no powers which are not granted to it by the Constitution, and the powers actually granted must be such as are expressly given, or given by necessary implication.'"

Plus, in Alden 527 U.S. at 761, "Tenth Amendment right to be free of any judicial power, whether the court be state or federal, and whether the cause of action arise under state or federal law."

Now, there are two Due Process Clauses and two Privileges and Immunities Clauses in the U.S. Constitution. Looking at this from a chronological perspective:

- The Article 4 Section 2 "Privileges and Immunities Clause" was adopted in 1787.
- The 5th Amendment "Due Process Clause" was adopted in 1791.
- Whereas the 14th Amendment's Section 1 "Due Process Clause" and its "Privileges and Immunities Clause," were adopted in 1868.

It is important to note that the 14th Amendment's Section 5 states, "The Congress shall have power to enforce, by appropriate legislation, the provisions of this article." Therefore, the 14th Amendment is entirely under Federal Government jurisdiction. The 14th Amendment's Section 1 holds the aforementioned duplicate Due Process Clause and duplicate Privileges and Immunities Clause. According to the Constitution, then, these duplicate clauses grant the Federal Government authority over the states or the people, which would be otherwise unauthorized by the original Due Process Clause (5th Amdt.) and the original Privileges and Immunities Clause (Art. 4 Sec. 2).

In Thorington v. Montgomery, 147 U.S. 490, 492 (1893), "The 5th Amendment operates exclusively in restriction of Federal power, and has no application to the states." Additionally, in Twining v. New Jersey, 211 U.S. 78, pages 101-102 (1908), "The 5th Amendment ... is only binding on the Federal government and its agencies, and is not a limitation upon any of the states composing the Federal union. The rights or immunities which it creates, therefore, are rights and

and immunities against Federal, but not against state, interference and abridgment."

In McDonald at page 906,

"Four years after the adoption of the Fourteenth Amendment, this Court was asked to interpret the Amendment's reference to 'privileges or immunities of citizens of the United States.'... the Court concluded that the Privileges or Immunities Clause protects only those rights 'which owe their existence to the Federal government, its National character, its Constitution, or its laws.'... The Court held that other fundamental rights—rights that predated the creation of the Federal Government and that 'the State governments were created to establish and secure'—were not protected by the Clause."

II. ARGUMENT REGARDING SUCCESSIVE MOTIONS:

- It is written in Article 6 Clause 2 of the U.S. Constitution, "This Constitution ... shall be the supreme Law of the Land."
- It is written in Rule 9 of the D.C. Code Section 23-110, "(b) Successive motions. A second or successive motion may be dismissed if the judge finds that it fails to allege new or different grounds for relief and the prior determination was on the merits or, if new or different grounds are alleged, the judge finds that the failure of the movant to assert those grounds in a prior motion constituted an abuse of the procedure governing these rules."
- It is written in Article 1 Section 9 Clause 2 of the U.S. Constitution, "The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it."

The D.C. Code is inferior to the U.S. Constitution. Romero's Argument Regarding Sovereign Immunity is a meritorious constitutional claim that deserves serious consideration, despite what it says in Rule 9(b) of D.C. Code Section 23-110.

III. IN SUMMATION:

When the U.S. Supreme Court makes rulings, these rulings trickle down like water to all inferior courts, like that of the D.C. Superior Court which heard and decided Romero's case. These inferior courts have to follow through with the Supreme Court's rulings. So had it not been for the Supreme Court's interpretations about "incorporation" and "abrogation" of Romero's first 11 Amendment rights, then his Sovereign Immunity from Federal Government encroachment would have worked and protected him from the beginning of this case. In essence, these judicial interpretations violate all of the first 11 Amendment rights and the Privileges and Immunities Clause of Article 4 Section 2. But verbatim, these judicial interpretations directly violate the 9th and 10th Amendment rights. Nowhere in the U.S. Constitution is it written that the 14th Amendment Due Process Clause "incorporates" the first 8 Amendment rights, or that the 14th Amendment Section 5 "abrogates" the 11th Amendment right. Therefore making these judicial interpretations unconstitutional. Romero was never fully informed or made aware of these limitations of his rights. So whether he did or did not "consent" to the criminal action against him, Romero was in fact prejudiced and deceived. The D.C. Superior Court lacked Personal Jurisdiction over Romero and his personal rights since the beginning of this case. The fact that everything that was just stated is a meritorious constitutional claim, Rule 9(b) of D.C. Code Section 23-110 should be disregarded in this matter, because the U.S. Constitution is the "supreme Law of the Land."

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Christian Romero pro se

Date: 10/09/24