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IN THE

SUPREME COURT OF THE UNITED STATES

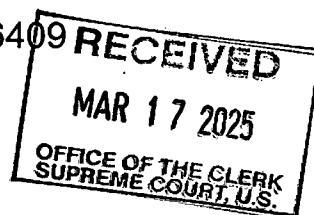
IN RE: SAMUEL RIVERA — Petitioner

Vs.

THE ELEVENTH CIRCUIT COURT OF APPEALS — Respondent

PETITIONER FOR EXTRAORDINARY WRIT OF MANDAMUS
TO COMPEL THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT UNDER CAE NO.: 24-10477-G
ACCORDING S.C. RULE 20.1, 2

SAMUEL RIVERA DC# 180695
PRO SE
DADE CORRECTIONAL INSTITUTION
19000 SW 377TH STREET
FLORIDA CITY, FLORIDA 33034-6409
QUESTION(S) PRESENTED



The Petitioner's clear constitutional legal right under the declaration of the United States Constitution and Florida constitution allows the court's indisputable legal duty and will justify the granting of the Petitioner's writ that will be in aid to the court's appellate jurisdiction because the petitions adequate relief cannot be obtained in any other form or from any other court.

The Petitioner filed a writ of habeas corpus in the state court of Florida for being detainee in the judgment of acquittal of a double jeopardy conviction and sentence. The Petitioner being acquitted of the charges by the trial court and the state prosecution of the charges. The state court order imposing sanctions against the Petitioner for filing a writ without an attorney present. The Petitioner is being detained unlawfully in violation of the U.S. Constitution's Amendment 5th and Florida Constitution Article I, Section 9' Florida Statute §910.11(1).

The Petitioner filed in the United States District Court Southern District of Florida a petition for writ of habeas corpus under the 28 U.S.C. §2241(3) that is present in the United States Constitution Article VI. the supremacy clause of the constitution in the declaration is in violation of the Amendment 5 of the United States Constitution when the Petitioner is being detained in the judgment of acquittal double jeopardy and conviction with unconstitutional sentence. The judge, without looking at the facts in the

constitution, dismissed and closed the Petitioner's writ of habeas corpus under Title 28 U.S.C. §2241(3) by changing the writ to 28 U.S.C. §2254 and 2255 in violation of the Petitioner constitutional protection, Amendment 5th and 14th(1).

the Petitioner filed an appeal to the United States Court of Appeals for the Eleventh Circuit under Title 28 U.S.C. §2241(a)(c)(3) appealing the United States District court Southern District of Florida for closing the Petitioner's writ under 28 U.S.C. §2241(3) and changing the Petitioner's writ from 2241 to 2254: 2255, without any authority by congress because the Petitioner filed writ of habeas corpus and not writ of certiorari.

The Petitioners writ of mandamus in this case is the proper remedy to compel the illegal and unconstitutional detention by the federal and state court since "the Petitioner has been found not guilty actually innocent of the crime charged in the indictment of the murder robbery and firearm wit: a machine gun in Florida Statutes §782.04, §812.13, §790.07 and §777.011 (1985). The trial court judge acquitted the Petitioner set on count (3) of the indictment of the all charges. The court or the state prosecution or the defense counsel never told the jury before jury instruction or jury verdict of the Petitioner that was found not guilty actually innocent of the crime.

The writ of mandamus have clear legal right in this case by the act of congress order command under Title 28 U.S.C. §2241(a)(c)(3) to do the thing the other statutes cannot do under Article VI of the United States Constitution.

The federal court judge that must show cause why he should not do if follow the congress order in the petition for writ of habeas corpus under 28 U.S.C. §2241(a)(c)(3) when no legal principles or rule exist by the courts.

Here are three tings the judges cannot do in this case change that:

The United States Constitution is the supreme law of the United States which the Amendment 5th cannot be disputed. The federal statute may by the congress the court must also interpret statutes and supply legal principle when no rule exist 28 U.S.C. §2241(a)(c)(3) in the judgment of acquittal and double jeopardy sentence by the courts.

The fact as well as law must be a decision before the court can deny this writ of mandamus which cannot be disputed.

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF MANDAMUS

Petitioner Respectfully Pray that a Writ of Mandamus Issue

Opinions Below

[] For cases from federal courts:
Eleventh Circuit court of Appeals case no. 24-10477-G

The opinion of the United states Court of Appeals appears at Appendix 1 to the petition for Writ of Habeas Corpus under the title 28 U.S.C. §2241(a)(c)(3).

[] Reported at The writ closed with opinion or order

[] Has been designated for publication but is not yet

[] is unpublished

The opinion of the United States District Court appears at Appendix 2 to the Petitioner and the petition for writ of habeas corpus under Title 28 U.S.C. §2241(3)

[] Reported at The writ been dismissed without ruling

[] Has been designated for publication but is not yet
7

[] is unpublished

[] For cases from state courts:
The Supreme Court of Florida

The opinion of the highest state court to review the merits appears at Appendix 3 to the petition for writ of habeas corpus and is

[] Reported at Rivera v. State, 229 So.3d 401 (Fla. 3d DCA 2017)

[] Has been designated for publication but is not yet

[] is unpublished

The opinion of the Third District Court appears at Appendix 3 to the petition for writ of habeas corpus at the state court's and is

[] Reported at _____

[] Has been designated for publication but is not yet

[] is unpublished

TABLE OF AUTHORITIES CITED

<u>Case(S):</u>	<u>Page Number(s):</u>
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§812.13	3, 16, 17
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28 U.S.C. §1251	12
28 U.S.C. §2254	2,3,4,5
28 U.S.C. §2255	3, 15

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Appendix "1"

Appendix "2"

Appendix "3"

Appendix "4"

LIST OF PARTIES

[] All parties appear in the citation of case on the page
7

[] 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:

Office of the clerk
United States Supreme Court
1 First Street, N.E.
Washington, DC 20543

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United States Court of Appeals
For the Eleventh Circuit
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Atlanta, Georgia 30303

Honorable Attorney General of Florida
Office of the Attorney General
Department of Legal Affairs
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Miami, Florida 33131

JURISDICTION

[] For case from federal courts:

The writ of certiorari; the Petitioner's only filed writ of habeas corpus
under Title 28 U.S.C. §2241(a)(c)(3) and the state court and the federal
courts on which the United States court of Appeal decided my case my
case was December 03, 2024

[] Petition for Rehearing that was never granted by any courts.

[] The United States court of Appeals never grant any writ under Title
28 U.S.C. §2241(a)(c)(3) or rehearing appears at Appendix 1.

[] The Petitioner never filed any writ of certiorari; The Petitioner's only
filed writ of habeas corpus under title 28 U.S.C. §2241(a)(c)(3) and the
state court and the federal courts that /appears at Appendix 1, 2, 3.

The jurisdiction of this court is invoked under 28 U.S.C. §1251 AS PROVIDED IN S.Ct. Rule. 20.1

This United States Supreme Court has the original jurisdiction in the petition for writ of mandamus under Article III, §2 of the Constitution of the United States. See also 28 U.S.C. 1251 and United States Constitution amendment

11. A petition was Respectfully submitted, an extraordinary writ in aid of the court's appellate jurisdiction shall be filed as provided in S.Ct. Rule 20.1 2. In Rasul v. Bush, 124 S.Ct. 2686, 2692-2696, 542 U.S. 466, 473-4775, 156 L.Ed.2d 548 (2004); [A] congress has granted federal courts within their respective jurisdiction. The authority to hear applications for habeas corpus by any person who claims to be held in custody in violation of the constitution or laws and treaties of the United States in Title 28 U.S.C §2241(a)(c)(3). See Id. at 2692-2696, supra. See Brown v. Davenport, 142 S.Ct. 1510, at 1532, 212 L.Ed. 463 (2022)

[] For cases from state courts:

The date on which the highest state court decided my case was

7/21/2022 a copy of that decision appears at APPENDIX 3

[✓] The petitioner for writ of habeas corpus, the was denied and no motion for rehearing or reinstatement will be entertained the Supreme Court to Florida unless the Petitioner is represent by attorney denied on the following date: May 26, 2021, and a copy of this order denying rehearing appears at Appendix 3.

[✓] The Petitioner never file an extension of time because he Petitioner's never filed writ of certiorari. The Petitioner only filed writ of habeas corpus under Title 2241(a)(c)(3) which his never been reviewed on the merits and denied on the merit in violation of the Fifth Amendment of the United States Constitution and Florida Constitution Article 1, Section 9; Fla. Stat. §910.11(1) (1985).

The jurisdiction of this court is involved under S.Ct. Rule 20.1.2.

Constitutional and Statutory Provision Invoked Under S.Ct. Rule 20.1.2.

The Petition for writ of habeas corpus under Title 28 U.S.C. §2241(a)(c)(3) is an extraordinary writ that will aid the court's appellate jurisdiction when adequate relief cannot be obtained in any other form or from any other court when the state and federal court is limited to adoption of the constitutional laws in the writ of habeas corpus allowing constitutional

guarantees from congress under 28 U.S.C. §2241(a)(c)(3), courts “within their respective jurisdictions” are to entertain habeas applications by persons claiming to be held “ §§2241(a)(c)(3).

In the United States Constitution Article VI, the supremacy clause of the Constitution under Title 28 U.S.C. §2241(a)(c)(3) is the legal issue in the petition for writ of habeas corpus expressing provisions of the [fifth] Amendment bounds and limits all jurisdiction”]; for the writ of habeas corpus that can only be resolvable by the interpretation of the constitution as the state and federal courts refuse to correct the petitioner’s unconstitutional inquiry of unlawful detention and the judgment of acquittal plus double jeopardy conviction and sentence that was “beyond the jurisdiction of the court.” Because “an express provision of the constitution of [fifth] amendment bounds and limits all jurisdiction”]; under the color of the constitutional laws. According to Title 28 U.S.C. §2241(a)(c)(3) when the Petitioner being held in custody in violation of the United States Constitution Amendment 5th and Florida Constitution Article I, Section 9, Florida Statute §910.11(1).

In the language of the constitution and Title 28 U.S.C. §2241(a)(c)(3) is addressed especially to the courts judge. It prescribes directly for them, a rule in the Petitioner’s writ according to the Title in the habeas corpus an not depart the Petitioner’s writ from Title 28 U.S.C. §2241(a)(c)(3)to Title 28

U.S.C. §2254 or 2255. To deny the Petitioner liberty in the judgment of acquittal when the trial court judge found the Petitioner actually innocent of the crime in all the charges in the indictment.

The Petitioner's writ of mandamus will aid the court's appellate jurisdiction because the court's shall not ignore that (every law made by the congress in Rasul v. Bush, 124 S.Ct. 2686, 2692-2696, 542 U.S. 466, 473-475, 159 L.Ed.2d 548 (2004).

The court's have no power to act unless the constitution authorizes it to do so, the Congress or the United States Supreme Court.

The Petition for writ of habeas corpus is drawn into question in this case and the federal court has the authority to overrule Title 28 U.S.C. §2241(a)(c)(3) over the Congress or have the power to change the writ from Title 28 U.S.C. §2241(a)(c)(3) to §2254 or 2255 when the courts do not have probable cause in the judgment of acquittal?

STATEMENT OF THE CASE

The Petitioner Samuel Rivera was indicted by the grand jury in Dade County, Florida Case No.: 85-25037. A single episode on October 15, 1985. The murder, robbery, firearm it: a machine gun in violation of Florida Statutes §782.04; 812.13; 790.07; and §777.011 (1985).

The grand jury indicted the Petitioner in the instant

COUNT I

The Petitioner was indicted with robbery, killing and murdering John Burgos with a firearm wit: a machine gun in violation of Florida Statutes §782.04; §775.087 and §777.011

COUNT II

The Petitioner was indicted with robbery, carrying a firearm to wit: a machine gun in violation of Florida Statutes §812.13 and §777.011.

COUNT III

The Petitioner was indicted in the instrument of the indictment, as thus charges committing a felony with murder, robbery as provided by §782.04, and/or ~~§812.13~~ Florida Statutes. The possession and display of said firearm with: a machine gun as aforesaid being in violation of 790.07 and §777.011 Florida Statutes (1985).

See Appendix and Exhibit (4). The judgment of acquittal was granted by the trial court judge and set in the information of the indictment on count(3).

The Petitioner being found not guilty and of factual innocence of the charges in the instrument of the indictment of the murder and robbery with: a machine gun and Florida Statues 782.04 790.07 and §777.011 Florida Statutes (1985) on count (3) of the indictment on all charges.

The Petitioner indictment in the instrument of count (1) and (2) contained the same charges of murder, robbery and the firearm wit: a machine gun that they contained in count (3) of the instrument of the indictment which represent double jeopardy charges for being charged twice in one ingle episode i violation of the Fifth Amendment of the United States Constitution, for which the Petitioner was acquitted on count (3) with the same charges as count (1) and (2).

See Appendix and Exhibit (4)

The court entered a order on count (3) count (3) is no longer part of the indictment. Petitioner's was been found not guilty by the court sitting without a jury for the murder robbery firearm/and Florida Statues §782.04; §812.13; 790.07; and §777.011 (1985) laws.

The trial court judge granted the Petitioner a judgment of acquittal when the state prosecution did not submit evidence before the court and jury as to count I, II and III and there is nothing to substantiate any of the facts that counts (1) and (2) were the same charge as count (3). And count (3) in the indictment turned on the very same issue of ultimate facts as counts (1) and (2) in a double jeopardy clause and the verdict on count (3) and judgment of acquittal stands for all the charges in counts (1), (2) and 3). In Evans v. Michigan, 568 U.S. 313, 133 S.Ct. 1069, 185 L.Ed.2d 124, 2013 U.S. LEXIS 1641 (2021). This court holding that; However, that the judge's prior ruling constituted an acquittal and therefore barred the Defendant's conviction for this offense. Supra in Ash v. Swenson, 90 S.Ct. 1189-1191 397 U.S. 436, L.Ed.2d 469 (1970); Bento v. Maryland, 395 U.S. 784, 89 S.Ct. 2056, 23 L.Ed. 707 (1969).

The trial court judge and the state prosecution was without jurisdiction in the judgment of acquittal never telling the jury before jury instruction. The Petitioners been found not guilty of all the charges in the indictment of the murder, robbery and firearm wit: a machine gun . In Florida Statutes §782.04; §812.13; §790.07 and §777.011.

The Petitioner's conviction on counts (1) and (2) represent a violation of a double jeopardy clause judgment of acquittal see Petitioner indictment

and count (3) that's set in the judgment of acquittal. In the jury instruction with the same charge for the murder, robbery and firearm in the Florida Statutes that all are the same as counts (1), (2) and (3).

When the Petitioner filed the writ of habeas corpus in the state court claim he was detained unlawfully and unconstitutionally in violation of the Florida Constitution Article 1, Section 9: Florida Statute §910.11(1). The Petitioner was sanctioned for not being represented by an attorney in the judgment of acquittal and double jeopardy conviction and sentence.

When the Petitioner filed his petition for writ of habeas corpus under Title 28 U.S.C. §2241(a)(c)(3) the federal district court and the circuit court of appeals dismissed and closed the Petitioner's case without opinion or ruling by the judges and was a deprivation of liberty in violation of unconstitutional laws in drawn power of the constitution and the equal protection of the Fifth and Fourteenth Amendment from the petition of writ of habeas corpus under Title 28 U.S.C. §2241(a)(c)(3), the judge knew the state and federal courts could not draw this power from the Fifth Amendment or any conviction and sentence from the judgment of acquittal and double jeopardy clause sentence.

The Petitioner's writ of mandamus will be in aid of the court's in the United States by addressing what no judge's shall address with a different

conclusion from any writ of habeas corpus under Title 28 U.S.C. §2241(a)(c)(3); Article VI. The supremacy clause of the constitution and special form the Fifth Amendment of the United States constitution double jeopardy clause and judgment of acquittal. Supra in McCulloch v. Maryland et al., U.S. (4 Wheat 316 at 327) 4 L.Ed 579 (1819).

In Marbury v. Madison, 5 U.S. 137 [1 Cranch] 138 at 179-180] 2 L.Ed. 60 (1803) headnotes classified to U.S. Supreme Court; the constitution itself is first mentioned: and not the laws of the United States generally but those only which shall be made in pursuance of the constitution have that rank, and any circumstances the Petitioner or Defendant's or persons claiming to be held in custody "in violation of the constitution or Title 28 U.S.C. §2241(a)(c)(3). In this case, then, the constitution must be looked into by the federal judges to prevent a miscarriage of justice in violation of constitutional laws of the supremacy clause of the constitution, this is why the court's discretionary power and adequate relief cannot be obtained in any other form or from any other court because the court's judge does not want to discharged the duties of the constitution and laws of the United States defending the poor or when the Defendant is pro-se, because the court judge's believe today that justice is only for the rich.

REASON FOR GRANTING THE PETITION FOR WRIT OF MANDAMUS

It is the proper remedy to compel the state courts of Florida and the federal district courts when the Petitioner's constitutional laws of the United States have been violated, due to the law of this country that affords the Petitioner a remedy? When the Petitioner being detained unconstitutionally in violation of the Fifth Amendment of the United States and the judgment of acquittal plus double jeopardy clause is in violation of Title 28 U.S.C. §2241(a)(c)(3).

The Petitioner's principle of the constitutional laws that a writ of mandamus lies, there will be no other adequate, specific, legal remedy when the federal courts refuse to follow the federal statute and the acts of congress in the petition for writ of habeas corpus under Title 28 U.S.C. §2241(a)(c)(3).

The congress has granted federal courts within their respective jurisdiction the authority to hear applications for habeas corpus by any person who claims to be held in custody in violation of the constitution or laws and treaties of the United States in Article VI, in Title 28 U.S.C. §2241(a)(c)(3). Supra in Raul v. Bush, 124 S.Ct. 2686, 2692-2696, 542 U.S. 446, 473-475, 156 L.Ed.2d 548 (2004).

In Brown v. Davenport, 142 S.Ct. 1510, 1532, 212 L.Ed.2d 463 (2022) this court decided that the federal judiciary's authority extended to hearing

constitutional challenge to final convictions under the new statute Title 28 U.S.C. §2241(a)(c)(3). The court explained “a single [federal] judge on habeas corpus could free a prisoner after conviction in a state court” upon finding the petitioner is being unconstitutionally restrained in violation of the United States Constitution Amendment Fifth, and Florida Constitution Article 1, Section 9 when the state has no constitutional authority or power to condemn the Petitioner in violation of the double jeopardy clause after the judgment of acquittal is granted and ordered by the trial court judge. See Id. at 1532, Brown v. Davenport.

In Marbury v. Madison, 5 U.S. 137[1 Cranch 138, at 166-180] 2 L.Ed 60 (1803) that acts of a case in which the executive possesses a constitutional or legal discretion, the federal courts ruling must be examinable of the constitutional laws which it arises and the judge has a specific duty assigned to him or her by the congress and constitutional laws. The court performance of their duty depend on the Petitioner’s writ of habeas corpus under Title 28 U.S.C. §2241(a)(c)(3) and by the court judge in which he or she must consider himself injured of the Petitioner’s unconstitutional detention which the unconstitutional conviction and sentence and the judgment of acquittal and double jeopardy clause, caused.

The federal judge has the duty and the authority to determine the constitutional laws of this country and give a remedy in this writ of habeas corpus according in M'Culloch v. Maryland, et al. U.S. [4 Wheat 316 at 327] 4 L.Ed. 579 (1819).

CONCLUSION

The Petitioner explained correctly to the United States Supreme Court the ministerial function of the judicial courts judge who's not operating correctly according to the congress under Title 28 U.S.C. §2241(a)(c)(3), when the federal court went on to hold that, in light of the constitution the Petitioner writ of habeas corpus under Title 28 U.S.C. §2241(a)(c)(3) should faithfully and impartially discharge the Petitioner writ without opinion or ruling closing and dismissing the petition for writ in the judgment of acquittal and double jeopardy clause when the Petitioned writ under Title 28 U.S.C. §2241(a)(c)(3) was "beyond the jurisdiction of the court." Because "an express provision of the constitution of [Fifth] Amendment bounds and limits all jurisdiction").

"[N]o court has jurisdiction to imprison a person or detain the Petitioner in custody in violation of the constitution." In Brown v. Davenport, 142 S.Ct. 1510 at 1534, 212 L.Ed.2d 463 (2022) In at 1534 supra.

The Petition for an extraordinary writ of mandamus authorized by 28 U.S.C. §1651(a) and Title 28 U.S.C. §2241(a)(c)(3) justifies the granting of any such writ the Petitioner will be in aid of the court's appellate jurisdiction, that exceptional circumstances warrant the exercise of the court's discretionary powers and that adequate relief cannot be obtained in any other form or from other courts since the state courts and the federal courts overlooked and misapprehended the habeas corpus under Title 28 U.S.C. §2241(a)(c)(3) and the power or the authority of the United States Constitution in the statute, the congress establishing and pronounced the constitutional authority of the courts comes from the laws of the land in article III Section 1 and 2 and Article VI, the supremacy clause of the constitution in which the congress has the duty to make laws and enforce the constitution as written and not to overrule the constitutional authority ... constitutional law. Legal issues are reasonable by resolving the interpretation of a constitution and constitutional provisions restricting power of congress and the federal courts and state courts and the federal statutes enforce the federal court's judge's to follow the laws and not to abrogate with the laws made by congress and the United States Supreme Court or the laws of the land.

The state legislature of the state courts or the federal district court judges that cannot define or put limits on the Petitioners writ of habeas corpus under Title 28 U.S.C. §2241(a)(c)(3) or constitutional claims because Title 28 U.S.C. §2241(a)(c)(3) restricts the power of the federal district court from denying the petition habeas corpus in Title 2241. In Alazar v. Buono, 130 S.Ct. 1830 at 1817 note [12] (2010) the United States Supreme Court holding: congress, the executive and the judiciary all have a duty to support and defend the Article and Amendments the United States under the color of the law. According to U.S. v. Windson, 570 U.S. 744, 133 S.Ct. 2675, 186 L.Ed.2d 808 (2013).

The United States Supreme Court has the jurisdiction to consider the Petitioner's writ of mandamus for deprivation of the Title 28 U.S.C. §2241(a)(c)(3) in life and liberty protection of the Fifth and Fourteenth Amendment of the United States Constitution.

The Petitioner is entitled to be discharged in the writ of habeas corpus and the Petitioner writ of mandamus shall be granted according to the constitution of the Fifth Amendment. In Adarand Construction, Inc. v. Pena, 515 U.S. 200, 115 S.Ct. 2097, 132 L.Ed.2d 158 (1995) the federal government's Fifth Amendment obligation not to deny anyone equal protection of the constitution laws to any person that's been detained in

violation of the Fifth Amendment under a judgment of acquittal and double jeopardy clause in deprivation of liberty.

The federal court of appeals are obligated to enter an order by the trial court judge in the Petitioner, unconstitutional unlawful detention and the case and judgment of acquittal and double jeopardy sentence according to the laws in United States v. Sangess, 114 U.S. 310, 36 L.Ed. 445, 12 S.Ct. Rep 609; United States v. Ball, 163 U.S. 662, 671, 16 S.Ct. 1192, 41 L.Ed. 300 (1896). Also State v. Gaines, 770 So.2d 1221 at 1226 (Fla. 2000).

In Brown v. Davenport, 142 S.Ct. 1510 at 1534, 212 L.Ed.2d 463 (2022), the federal and the state courts [had] no constitutional authority or power to condemn the Petitioner in violation of double jeopardy clause in the judgment of acquittal.

Respectfully submitted,


Samuel Rivera Pro Se
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