

No. 17-495

IN THE SUPREME COURT OF THE UNITED STATES

Lamon-Sandel:Donnell
Petitioner

v.

STATE OF TEXAS
D/B/A; ERNEST GONZALES
Respondent(s)

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

PETITION FOR REHEARING

Lamon-Sandel:Donnell
5033 Wagner Circle
The Colony, TX [75056]

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PETITION FOR REHEARING

Petitioner respectfully seeks a rehearing of the herein
Petition for Writ of Certiorari; and in support, would show
this Honorable Court as follows.

GROUND FOR REHEARING

A rehearing of the decision in this matter is in the
interest of justice because "the judicial obligation to
exercise jurisdiction" is fundamental and "does not allow
evasion of constitutional and statutory jurisdictional pre-
requisites," cf. Reyes-Mata v. Lynch, 192 L.Ed.2d 225 (2015)
at 234-235 (Thomas, J., dissenting).

When a lower federal court lacks jurisdiction, irrespec-
tive of any appellate review on the merits, the Supreme Court
must correct the lower court's error.

JURISDICTION

Article III of the U.S. Constitution provides that
federal judicial power is restricted to "Cases" and "Contro-
versies." U.S. Const. Art. III, § 2. The Court has original
jurisdiction and authority to grant relief pursuant to
28 U.S.C. §1331 (federal question) because it arises under
the laws of the United States, and under 5 U.S.C. §703
(Administrative Procedures Act).

FACTS

1. On November 6, 2017, this Court denied the Petition for Writ of Certiorari.

2. The initial filing below demonstrates that the lower court, on June 6, 2016, recharacterized Petitioner's claim under §1331 as an action pursuant to 28 U.S.C. §2255.

3. The lower court's use of recharacterization amounted to an evasion of jurisdiction to hear Petitioner's claim that the earlier judgment was void ab initio due to the prosecution's failure to properly invoke the court's subject matter jurisdiction, and because due process violations deprived the court of any subject matter jurisdiction otherwise presumed. By recharacterizing the filing below, the lower court effectively abdicated its duty under the Constitution.

4. Petitioner was not granted any opportunity by this Court to demonstrate that his case should receive the same substantial fairness concerns as in Reyes-Mata, supra.

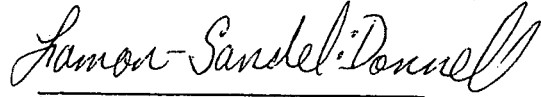
5. A rehearing focused on the distinctions between this case and that of Castro v. U.S., 157 L.Ed.2d 778 (2003), and whether these distinctions merit a different rule of law, is a matter of fundamental fairness to Petitioner and would not unduly burden the Court.

6. Accordingly, the interest of justice demands further proceedings as outlined herein.

CONCLUSION

The Court should grant the Petition for Rehearing.

Respectfully submitted,


Lamon-Sandel:Donnell

CERTIFICATES

I, Lamon-Sandel:Donnell, a man confined in a federal prison and not represented by counsel, pursuant to Supreme Court Rule 39.2, certify that this Petition for Rehearing is presented in good faith and not for delay, and that it is restricted to the grounds specified in Supreme Court Rule 44.

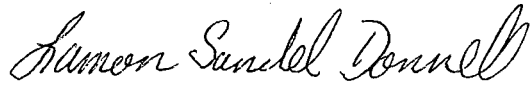
As required by Supreme Court Rule 33.1(h), I certify that this document contains 332 words, excluding the parts of the document exempt by Supreme Court Rule 33.1(d).

I further certify that on the subscribed date I placed the original and suitable copies of the foregoing instrument with prison officials for mailing, first-class postage pre-paid, addressed as follows:

United States Supreme Court
1 First Street, NE
Washington, DC 20543-0001

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on November 22, 2017.


Lamon-Sandel:Donnell