

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

Vicki Dillard Crowe — 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 Tenth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Vicki Dillard Crowe
(Your Name)

P.O. Box 460473
(Address)

Glendale, CO 80246
(City, State, Zip Code)

303-507-0602
(Phone Number)

QUESTION(S) PRESENTED

1. Did the 10th Circuit Court deviate from long held, ubiquitous case law, that states that a pro se petition should be construed in a light most favorable to that litigant?
2. Did the 10th Circuit err in failing to acknowledge and rectify its flawed order denying COA, since it failed to address (at all) one of the main issues raised in petitioner's COA?
3. Did the 10th Circuit err in its COA petition, when on its face, pro se litigant explicitly followed the lower court's directive and order?
4. Is the 10th Circuit setting a dangerous precedent, and displaying a bold-face disregard for fundamental fairness for the pro se litigant's case at-issue, and the Courts nationally - due to this deviation (herein and questions 1-3)?

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:

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

United States v. Morales-Morales,
222 Fed. Appx. 796, 2007 WL 1180419
(10th Cir. Apr. 23, 2007)

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Yang v. Archuleta, 52 T.F.3d 925, 927
n.1 (10th Cir. 2008)

STATUTES AND RULES

OTHER

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☒ is unpublished.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☐ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits 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 _____ 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.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 6/30/17.

☐ 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: 8/30/17, and a copy of the order denying rehearing appears at Appendix (Attachment II)

☐ 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).

☐ 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 U.S. Supreme Court has jurisdiction because the 10th Circuit Court of Appeals issued an order denying CoA - which is under this Court's purview & jurisdiction.

STATEMENT OF THE CASE

Crowe will not belabor the Court on what is clear, on its face. That is, Crowe was denied fundamental fairness and notice from the U. S. District Court, when it: a) failed to provide her with a free transcript copy, though she requested one early on, to assist in the supplementation of her 2255; b) when it failed to issue either an order informing Appellant that it had determined that the timing issue was resolved, and/or a 'show cause' order; and c) when it denied her 2255 without considering the merits in total.

How can the 10th Circuit Court of Appeals justify this err on its face?

Although Appellant *timely* (and later *repeatedly*) requested a copy of her transcript to assist with her 2255, neither the clerk of the Court or the Court itself provided Appellant with said transcript when requested, or any response, whatsoever.

Although Appellant raised this as an issue/ argument in her COA, this Court's Order denying Certificate of Appealability does not address that meritorious issue/argument, *at all*. This makes the order denying COA insufficient and defective. The decision must be reversed.

On Page 4 of its denial of her COA regarding the district Court's Consideration of her Memorandum of Law, it states: "The district court never gave any formal indication that it would, and Crowe had no right to expect such a result." Respectfully, the Court is wrong. Crowe did indeed have the right to expect that her Memorandum of Law would be considered, as she did not receive a timely transcript from the lower court to support her 2255. Her request for a 30 day extension to file said Memorandum was *in lieu* of receipt of the transcripts. On its face, the lower court's failure to provide said transcripts was prejudicial and fundamentally unfair.

Her expectation is further based and supported by United States v. Morales-Morales, 222 Fed. Appx. 796, 2007 WL 1180419 (10th Cir. Apr. 23, 2007) ("To the extent he claims he failed to receive pertinent transcripts in time to prepare his first 2255 motion, we conclude the district court correctly characterized Mr. Morale's motion as a 'true' motion.")

Appellant rightly raises this issue, argument and fact, as it attacks as a major defect in the habeas proceeding, the failure to provide a transcript of the sentencing

hearing and the denial of her motion without her filing of a supporting memorandum.

Among many other issues and arguments, (such as sentencing attorney failing to raise the fact that Appellant met with the government and FBI long before any indictment, and it benefited and procured convictions therefrom, though she never receiving credit for substantial assistance), sentencing Attorney Forrest W. Lewis, appointed as CJA counsel after the trial attorney was removed, filed a Motion to Withdraw as Counsel. See Exhibit A.

By his **own** admission, on page 1, paragraph 4 of his motion, he stated: "Other conflicts which counsel did not put on the record arose during the hearing." Those conflicts included the fact that Appellant was whispering to him during sentencing, his failure to timely and adequately meet with her. Counsel lied to the lower Court about providing Appellant with documentation and proper counsel for sentencing.

Appellant requests that the Court take judicial notice of her attachment and references of docketed activity.

On Page 2 of its COA denial, the Court seems to concede there was a "mutual misunderstanding," however, it failed to construe Appellant's motion liberally and in a light most favorable to her by granting her COA. Yang v. Archuleta, 52 T.F. 3d 925, 927n.1 (10th Cir. 2008). Such a conclusion by the Court was sufficient alone for it to grant COA, or simply instruct the lower court to allow Appellant to proceed with the filing of her Memorandum.

The lower Court's failure to notify Appellant (and the government for that matter) that it had resolved the timing issue in her favor was fundamentally unfair.

The Court, in its denial, selectively and prejudicially ignored the proper and full context of Appellant's Reply to the government's motion conceding that Appellant had indeed *timely* filed her Motion. Appellant's Reply indicates her confidence and want for the Court's ***impending Order*** validating her 2255, based, in part, on the government's ***admission*** that Appellant timely filed her 2255 Motion.

The lower Court's failure to *notify* Appellant of its decision in writing was prejudicial and presumptive. Due process of law is that fundamental, constitutional guarantee that all legal proceedings will be fair and that one will be

5 Attachment (2 of 3)

given notice of the proceedings and an opportunity to be heard before taking action. The Fifth and Fourteenth Amendments to the U. S. Constitution, prohibits all levels of government from arbitrarily or unfairly depriving individuals of their basic constitutional rights.

Appellant's rights were no doubt violated, as it was unfair to not provide her with timely transcripts, as well as dismissing her 2255, even after the government concedes that her 2255 motion was timely. On its face, it's clear that Appellant's constitutional rights were violated. She asks for a rehearing by this court, for the sake of what's right. For the sake of justice.

6 Attachment (3 of 3)

REASONS FOR GRANTING THE PETITION

The 10th Circuit Court is a powerful Court that exists "of the people, for the people, by the people," as due all others. Its purview includes several states, and its decisions have weight in other Courts of its caliber. As such, the Court's decision to run afoul of such clear, long standing precedent (see again Questions Presented) - can only lead to catastrophic and draconian decisions hereafter; that will, no doubt, violate a germane principle: "Primum non nocere" - first do no harm. The citizens of a democratic Society must not be bamboozled into exercising her civil rights and civic duties, and then be denied fundamental fairness and the requisite relief when proper. The matters/issues/questions herein must be seen in this light, as the consequences have both national and moral weight, that threaten the very people it exists for.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 11-28-17