

TRULINCS 50437018 - LAM, CHUN HEI - Unit: SAF-C-D

FROM: 50437018

TO:

SUBJECT: COVER LETTER

DATE: 06/19/2018 09:08:30 PM

TO: THE HONORABLE CLERK OF COURT
FOR THE SUPREME COURT
OF THE UNITED STATES
1 First Street, NW,
Washington, DC.
20543-0001

FROM: CHUN HEI LAM
50437-018
FCI SAFFORD
P.O. BOX 9000
Safford, Arizona
85548

RE: THE FILING OF A REHEARING FOR A PETITION FOR CERTIORARI PURSUANT TO RULE 44

DEAR CLERK,

as to this Court's Rule 44 the original request was returned to me with instructions. I have attempted to comply with such the best that I can. I am a prisoner, pro se and untrained in the law to which I have assistance only from other prisoners.

I believe as to the intervening circumstances herein cited are extraordinary and on all fours with my claims and issues presented. I am not attempting to delay or cause any vexatiousness in this court and I believe that my rights have been violated during the plea negotiations in the original cause against me and thereafter, I presented such in the section 2255 proceeding and now there has been an intervening decision to which I request rehearing.

I originally sought rehearing to the Honorable Justice Sotomayor pursuant to this Courts Rule(s) 16(3) and 22(4) and I therewith request that you present such to said Justice herewith, respectfully.

I am thanking you in advance and apologizing for any inconvenience that this may have on you to your office, respectfully.

PETITIONER, PRO SE, CHUN HEI LAM

林健喜 6-21-18

TRULINCS 50437018 - LAM, CHUN HEI - Unit: SAF-C-D

FROM: 50437018

TO:

SUBJECT: PETITION FOR REHEARING

DATE: 06/19/2018 08:47:04 PM

IN THE

SUPREME COURT OF THE UNITED STATES

IN RE:

CHUN HEI LAM

VS.

UNITED STATES OF AMERICA

PETITION FOR REHEARING PURSUANT TO RULE 44
OF THE RULES OF THE SUPREME COURT OF THE
UNITED STATES
CASE NO. 17-8698

ON PETITION FOR WRIT OF CERTIORARI TO
THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA

I. PETITIONER HEREIN SWEARS THAT ,THIS PETITION FOR REHEARING IS PRESENTED IN GOOD FAITH AND
NOT INTENDED FOR ANY DELAY IN JUDGMENT. PURSUANT TO RULE 44 (id.)

CHUN HEI LAM
50437-018
FCI SAFFORD
P.O. BOX 9000
Safford, Arizona
85548

FROM: 50437018

TO:

SUBJECT: PETITION FOR REHEARING # 2

DATE: 06/19/2018 08:57:02 PM

II. STATEMENT OF THE ISSUES:

QUESTION ONE;

Did the District Court Error in Declining to order an Evidentiary Hearing in a Proceeding Pursuant to 28 U.S.C. Sec. 2255 in a Case Where Dueling Affidavits Controverted Facts to Which Both Agreed that a Third Party Interpreter was the Linchpin as such Was the Translator between A non-English Speaking Hong Kong National And an Attorney who did not Speak Cantonese During the Plea Negotiation Process ?

QUESTION TWO;

When is it "required" to hold an Evidentiary Hearing in a Proceeding Pursuant to 28 U.S.C. Section 2255(b) when Contested allegations of Fact exist in Sworn Testimony, in a He said She said battle in a claim of Ineffective Assistance of Counsel During the Plea Negotiation Process as to this Court's Decision in Lafler V. Cooper, and Missouri V. Frye.

That these issues are what were presented in the original Petition for Certiorari and are presented herein as the intervening circumstances call to rehear respectfully.

FROM: 50437018

TO:

SUBJECT: PETITION FOR REHEARING # 3

DATE: 06/19/2018 08:58:07 PM

III. INTERVENING CIRCUMSTANCES:

Petitioner hearing requests rehearing into this Court as to intervening Circumstances and Controlling effect to which is squarely to the issues originally presented in the Petition for certiorari. This issue arose as to a subsequent ruling after this Petition was presented before this Honorable Court in Robert Lee McCoy V. Louisiana, No. 16-82255 (May 14, 2018)

That, though my certiorari petition was not denied until May 29, 2018, I believe that the issue in the McCoy decision is in line with my original request.

This, that in McCoy, this Honorable Court reiterated the fact that when assisted by counsel pursuant to a criminal Defendant's Sixth Amendment Right,.. " it is the Defendant's Prerogative, ' not counsel's to decide the objective of his defense.' " (id.) That, this is "structural error, " therewith...(id.)

IV. REQUEST FOR RECONSIDERATION:

In Petitioner's case presented, Petitioner was a Hong Kong National, fished out of International waters headed for his native country. The U.S. Coast Guard boarded his the vessel he was conducting and began an uninvited search. Coast Guard Official's began to ask him questions in their "native language" (English) and thereafter, purported to secure an admittance of Citizenship of the boat to be Panama for he had a Panamanian flag from a convenience store inside the boat.

FROM: 50437018

TO:

SUBJECT: PETITION FOR REHEARING # 4

DATE: 06/19/2018 08:59:52 PM

CONTINUED FROM PAGE THREE

Upon finding that Panama did not in fact agree, they then secured jurisdiction by default and searched the vessel Turing up thousands of kilos of cocaine. They then arrested the Petitioner and took him to the United States where he was then taken through the "federal criminal justice process." This having never once stepped foot inside of the United States, spoke absolutely no English, and was oblivious as to how the American justice system operated..

As several others were aboard the vessel including Petitioner's brother-in-law (the owner of the vessel) all were taken in. Upon process therewith, Counsel was appointed to whom spoke absolutely zero Cantonese, to which was Petitioner's Native language.

In the later section 2255 petition to which Petitioner seeks review, he claimed therein that the Attorney Appointed, presented via an interpreter who spoke very basic Cantonese, a plea deal of 10 years. However, it was ultimately, "the attorney thereafter, who decided that Petitioner was going to proceed to trial by jury as opposed to pleading guilty." [She] (Attorney) cited to Petitioner that "he had a good chance to win and go home to his family."

Petitioner ultimately went to trial by jury after having been conducting a vessel to which carried cocaine. Petitioner having thereafter, received a sentence of 25 years, watched as his brother in law received 15 years and the rest of his crew being freed as found innocent. He was sent to a U.S. Federal prison therewith.

Upon hearing the ruling's in this Court's decision in *Lafler V. Cooper* and *Missouri V. Frye* (2012), he presented the claim to the district court, that at the time, not only did Petitioner speak zero English, [he] "he had no idea what 'trial, or pleading guilty meant.'" That after the district court ordered this Petitioner to file sworn statement therewith, he complied, and the attorney filed her response. (This via other prisoners)

Embedded therein, the "Attorney stated that ' she counseled Petitioner in the matter and he pleaded that he was innocent.'" That Petitioner was "counseled" on whether to accept or reject a plea of guilt. That this being "with or without a plea agreement." However, she contradictorily stated thereafter, that "there was no plea on the table."

FROM: 50437018

TO:

SUBJECT: PETITION FOR REHEARING # 5

DATE: 06/19/2018 08:42:55 PM

CONTINUED FROM PAGE FOUR

Petitioner asserts therein and herewith that, how it was that this "non-English speaking Attorney" could state with any credulity that "she counseled" a Non-English Speaking criminal Defendant in sworn testimony without any other support is the question that Petitioner presents to this Honorable Court to the Highest American Institution.

As Petitioner is a pro se Petitioner, without any assistance of counsel, having the assistance of other prisoners to present his claims, presented this "factual dispute before the district court for the Middle District of Florida," to whom sided, wholly with this Attorney's contradictory assertions supported by absolutely nothing. However, embedded in both of the sworn statements both the attorney and this Petitioner agreed that "the interpreter would support their claims."

It was not until thereafter, that Petitioner was able to make a call to this interpreter to whom was present at all stages of the process, and questioned her if "she remembered the case and ' the deal that was-offered,' who replied that she did."

Therewith, Petitioner, petitioned the District Court Pursuant to Federal Rules of Civil Procedure 27(d) requesting to freeze the phone call and take the statement of such. (Again, this being with the assistance of another prisoner) The court denied the reconsideration and request of such. This without calling for the clearly called for evidentiary hearing in the matter and to place this "interpreter," essentially the linchpin of the entire factual dispute to be examined in open court in the material matter presented before the court.

Therewith, the Petitioner went to the Eleventh Circuit to whom did in fact GRANT a Certificate of Appelability ("COA") pursuant to 28 U.S.C. Section 2253(c)(2), and thereafter, ordered full briefing in the matter.

Nonetheless, the Eleventh Circuit denied the claims and Petitioner sought rehearing en banc there with for reconsideration.

Upon denial of such, Petitioner came to this Honorable Supreme Court and asked the questions of when a hearing should be held pursuant to 28 U.S.C. Section 2255(b) in the face of these clearly called for circumstances. This requesting this Court to GRANT certiorari or grant, vacate, and Remand ("GVR") on the face of the pleadings.

FROM: 50437018
TO:
SUBJECT: PETITION FOR REHEARING # 6
DATE: 06/19/2018 08:42:17 PM

CONTINUED FROM PAGE FIVE

Petitioner received the denial on June 1, 2018 and is astounded that this Court did not take issue as to the circumstances surrounding this highly controversial issue as a matter of National importance.

On 6-04-2018, this Petition for rehearing was forwarded to this Honorable Court directly to a Supreme Court Justice Sotomayor, pursuant to this Courts Rule(s) 16 (3), and 22 (4). This as to this Court's Ruling in McCoy, supra.

On 6-18-2018 Petitioner received this Clerks' return of such with direction's to which I now represent as to it's directives thereto and herewith. (See Attached hereto)

This coupled with the original Petition in this case, Petitioner assert therewith that as this Court has now clarified that as to one of Petitioner's claims in his 2255 petition that " it is [Petitioner's] province to make the decision to plead guilty or to proceed to trial,...however, 'it is Petitioner's claim that he can only do so upon sound advice.' "

Here in this case is a criminal Defendant who was caught red handed with a ton of cocaine on the high seas (this with obvious jurisdictional significance) and was represented by a non-Cantonese speaking attorney to whom purportedly "advised" a Non-English speaking individual to whom never once stepped foot on American soil and had absolutely no idea of what pleading guilty or proceeding to trial meant, this to which every single interaction was brokered through an "interpreter."

Upon a "fact based argument" between this attorney (without an affidavit from this "interpreter" which stated such interpreter would testify in the matter) and from this Petitioner (to whom too stated that the interpreter would testify in the matter) why it was that the district court therewith would not take the occasion to put said interpreter, "the linchpin" and sole individual to whom could state with certainty and clarify on the stand or call upon such to present any testimony is claimed to be an obvious "abuse of discretion" and renders the section 2255 proceeding bald and without teeth as a mechanism for relief under the Congressionally created "habeas like" presentment.

FROM: 50437018

TO:

SUBJECT: PETITION FOR REHEARING # 7

DATE: 06/19/2018 08:48:43 PM

CONTINUED FROM PAGE SIX

As such, it was/ is an obvious necessity to call the evidentiary hearing and put the issue to rest or GRANT the relief that may be called for in the matter. For in the face of the (Americanized) Cantonese speaking interpreter the issue of "what was this criminal defendant's understanding" when "the decision was made" in determining whether to plead guilty or to proceed to trial ?

For here the facts presented was "none," and it was the attorney who made the decision in clear violation of this Court's decision in McCoy (Citing Decisions) and thus, presents an extraordinary circumstance to which this Court should take occasion to rehear his case, and GRANT the relief clearly called for with directive to GVR to hold the hearing that is clearly called for by and through Section 2255(b) for as it stands under these facts This foreign National has been taken through a process that is void as is in violation of the Sixth Amendment right to the effective assistance of counsel, during plea negotiations.

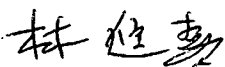
IV. CONCLUSION:

WHEREFORE, it is respectfully requested that this Honorable Court see that had Petitioner been counseled properly via this interpreter and known what all of his options were and the consequences were behind such, he would have plead guilty on the face of the indictment and surrendered to whatever the adversary may have had.

That herein all parties agree that the interpreter to whom is readily available and willing to testify in this matter and clarify, the statutory requirements of 2255(b) are met, and this Honorable Court should GRANT this request for rehearing and therewith GRANT, VACATE AND REMAND this cause to the district court for an evidentiary hearing respectfully.

That this Petitioner herewith swears that this request is not intended to delay and is taken in good faith as to the fact of the intervening circumstances of a new decision in this Court in McCoy.

PETITIONER, PRO SE CHUN HEI LAM



6-21-18

TRULINCS 50437018 - LAM, CHUN HEI - Unit: SAF-C-D

FROM: 50437018

TO:

SUBJECT: MOTION FOR REHEARING/RECONSIDERATION

DATE: 06/03/2018 12:53:30 PM

TO: The Supreme Court of the United States
C/O The Honorable Justice Sotomayor
1 First St., N.W.,
Washington, D.C.
20543-0001

FROM: CHUN HEI LAM
50437-018
FCI SAFFORD
P.O. BOX 9000
Safford, Arizona
85548

RE: MOTION TO REHEAR/RECONSIDER PETITION FOR WRIT OF CERTIORARI IN CASE NO. 17-8698

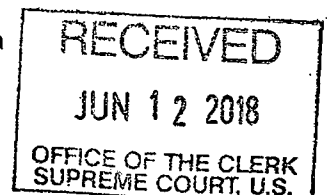
THE HONORABLE JUSTICE SOTOMAYOR,

Your Honor, I am Petitioning to you in the above styled capacity acting pro se pursuant to this Honorable Courts Rule(s) 16(3), and 22(4). This not only to my disagreement to the denial of the certiorari in it's entirety, but also to the issue of this Court's ruling's in a subsequent decision while the petition was pending. See Robert Lee McCoy V. Louisiana, No. 16-8255 (May 14, 2018)

In McCoy this Court reiterated the fact that when assisted by Counsel pursuant to the Sixth Amendment right, .."it is the Defendant's prerogative, 'not counsel's' to decide on the objective of his defense..." (id.)

in Petitioner's case presented, Petitioner was a Hong Kong National, fished out of International waters headed for his Native country. The U.S. Coast Guard boarded the vessel he was conducting and began an uninvited search. Coast Guard Official's began asking [him] questions in their Native language (English) and purported to secure an admittance of Citizenship of the boat to be Panama for he had a Panamanian flag from a convenience store inside the boat.

Upon finding that Panama did not in fact agree, they then secured jurisdiction by default and searched the vessel turning up tons of cocaine. They then arrested Petitioner and took him to the United States where he then was taken through the federal criminal justice process. This having never once stepped foot inside of the United States, spoke absolutely no English, and had no idea how the American Justice system operated.



FROM: 50437018

TO:

SUBJECT: MOTION FOR REHEARING/ RECONSIDERATION # 2

DATE: 06/03/2018 12:54:15 PM

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As several others were aboard the vessel including Petitioners brother-in-law (the owner of the vessel) all were taken in. Upon process therewith, Counsel was appointed to whom too spoke absolutely zero Cantonese, to which was Petitioner's native language.

In the Section 2255 Petition, Petitioner claimed that the Attorney presented to him a "10 year-plea deal," however, it was ultimately, "the attorney who decided that Petitioner was going to proceed to trial by jury as opposed to pleading guilty." [She] cited to Petitioner that "he had a good chance to go home and be with his family."

Petitioner ultimately went to trial by jury after having been conducting a vessel to which carried tons of cocaine. Petitioner having thereafter received a sentence of 25 years, watched as his brother in law received 15 years and the rest of the crew went free, being found innocent.

Upon hearing the ruling's in this Court's decision in *Lafler V. Cooper*, and *Missouri V. Frye* 2012, he presented the claim to the district court, that at the time, not only did Petitioner speak zero English, [he] had no idea what "trial-or pleading guilty meant." That after the district court ordered this Petitioner to file a sworn statement therewith, he complied, and the Attorney filed her response.

Embedded therein, the "Attorney" stated that "she counseled Petitioner in the matter and he pleaded that he was innocent." That Petitioner was "counseled" on whether to accept or reject a plea of guilt. However, she then contradictorily stated that "there was no plea on the table."

How it was that this non-Cantoneese speaking Attorney could state with any credulity that "she counseled" a Non-English speaking criminal defendant in sworn testimony without any other support is the question that Petitioner presents to this Honorable Court of the Highest American institution.

FROM: 50437018
TO:
SUBJECT: MOTION FOR REHEARING/RECONSIDERATION # 3
DATE: 06/03/2018 12:54:40 PM

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As Petitioner is a pro se criminal petitioner, without any assistance of counsel, having the assistance of other prisoners to present his claims, presented this factual dispute before the district court for the Middle District of Florida to whom sided wholly with this attorney's affidavit.

It was not until sometime after, after both Petitioner and attorney cited the "Government's - Interpreter" having been present at all stages of the process, this Petitioner placed a phone call to such questioning her if she remembered the case and the "deal that was offered," to who replied that she did.

Petitioner therewith Petitioner the District Court under Federal Rules of Civil Procedure 27(d) to take the statement of such and to seal the institution's call logs to preserve the evidence. (This via - assistance of another prisoner). The Court therewith denied the reconsideration of such and the request to seal, this without calling for the clearly called for "evidentiary hearing" to place this "Interpreter" upon examination to to be essentially the "linchpin" of the entire factual dispute.

Therewith, Petitioner went to the Eleventh Circuit, to who did in fact GRANT a certificate of Appealability ("COA") pursuant to 28 U.S.C. Section 2253(c)(2), and thereafter full briefing in the matter.

The Eleventh Circuit thereafter, denied the claims and this Petitioner sought rehearing en banc/- reconsideration.

Upon denial of such, Petitioner came to this Honorable Supreme Court and asked the questions of when a hearing should be held pursuant to 28 U.S.C. Section 2255(b) in the face of these circumstances. Requesting that this Court grant certiorari, or Grant Vacate and Remand ("GVR") on the face of the pleadings.

Petitioner received a denial of certiorari on June 1, 2018, and is astounded that this Court did not take issue with these circumstances surrounding this highly controversial issue as a matter of National Importance.

FROM: 50437018

TO:

SUBJECT: MOTION FOR REHEARING/RECONSIDERATION # 4

DATE: 06/03/2018 12:55:03 PM

CONTINUED FROM PAGE THREE

This Court has now clarified one of the Petitioners positions in this Petitioner (to which was pending when it was decided in McCoy). That, though it is the Petitioner's province to make the decision whether to plead guilty or proceed to trial, however, a Petitioner must do so "upon sound advice."

Here in the case of a criminal defendant to who was caught red-handed with tons of cocaine on the high seas, (with obvious jurisdictional significance) was represented by a "non-red-handed speaking attorney" and purportedly, "advised" a non-English speaking individual to whom never once stepped foot on American soil, not having any clue what "plead guilty or go to trial meant." Every interaction was transacted by a "Government interpreter."

Upon a fact based argument between this attorney (without an affidavit from the interpreter, who claimed that the interpreter would testify) and, from this Petitioner (Defendant-claiming the adverse and - that the Interpreter would testify) why it was that the district court therewith would not take the occasion to put the interpreter "linchpin" and sole individual who could for certainty clarify the situation was clearly an abuse of discretion AND makes the 2255 proceeding essentially a bald procedure with no teeth.

Therefore there is/was an obvious necessity to call the evidentiary hearing and put the issue to rest, for even in the face of the (Americanized) Cantonese speaking interpreter, what was this Petitioner/- criminal defendants "understanding" when he made the decision whether to plead guilty or proceed to trial ?

For here, the facts presented was "none," it was the attorney who made the ultimate decision, in clear violation of this Court's decision in McCoy (citing decisions) and in this Honorable Court's prior decisions in Lafler V. Cooper and Missouri V. Frye respectively his Sixth Amendment Rights guaranteed.

FROM: 50437018

TO:

SUBJECT: MOTION FOR REHEARING/RECONSIDERATION # 5

DATE: 06/03/2018 12:55:16 PM

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THEREFORE, it is respectfully requested that this Honorable Court see that had Petitioner been Counseled properly via this interpreter and known what his options were and the consequences behind such, he would have plead guilty on the face of the indictment and surrendered to whatever the adversary may have had.

That all parties agree that an interpreter to whom is readily available and willing to testify, in this matter to clarify and as to the statutory requirements under 2255(b) this Honorable Court should GRANT, VACATE AND REMAND this Cause to the district court for an evidentiary hearing respectively.

PETITIONER, PRO SE, CHUN HEI LAM

 6-4-18

**Additional material
from this filing is
available in the
Clerk's Office.**