

NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES

In re: RAYMOND L. ROGERS
PETITIONER

vs.

RESPONDENT(S)

ON PETITION FOR A WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C.S. § 2241(a) (c)(3)
VIA WRIT OF CERTIORARI REVIEW

RAYMOND L. ROGERS, Pro Se

P.O. Box- 3000 Medium

Forrest City, AR 72336

QUESTION(S) PRESENTED

- (1). IS THE PETITIONER'S HABEAS CORPUS CLAIMS OF SUCH
"EXCEPTIONAL CIRCUMSTANCES" AS TO WARRANT THIS COURT'S
DISCRETIONARY POWER TO REVIEW HIS HABEAS CORPUS
APPLICATION PURSUANT TO 28 U.S.C.S. § 2241(a) (c)(3)
IN A EX PARTE PROCEEDING?

List of all Parties

[X] All parties appear on the caption of this petition.

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF HABEAS CORPUS

Petitioner respectfully prays that a writ of habeas corpus
issues on the judgment below.

OPINIONS BELOW

☒ For cases from **federal court**:

The opinion of the United States Court of Appeals
appears at Appendix_____ to the petition and is

☒ reported at;

The opinion of the United States district court
appears at Appendix_____ to the petition and is reported
at;

JURISDICTION

☒ For cases from **federal court**:

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

The Jurisdiction of this Court is invoked under the all writs act
28 U.S.C.S. § 2241(a)(b)(c)(3).

STATEMENT OF THE CASE

Your Petitioner petitions this United States Supreme Court for a Writ of Habeas Corpus pursuant to 28 U.S.C.S. § 2241(a) (c)(3). This request comes via your Petitioner's Writ of Certiorari request to review the Eighth Circuit Court of Appeals decision [affirming] the Arkansas District Court's dismissal of his Habeas Corpus Application pursuant to 28 U.S.C.S. § 2241(a) (c) (3) for "lack of jurisdiction". See Rogers v Beasley, 2:17-CV-00198-DPM-JTR.

In support of his Habeas Corpus Application, your Petitioner respectfully argues that [he] is currently being [deprived] of "life and liberty" by being held in FCC Forrest City Federal Penitentiary pursuant to a [criminal prosecution] that commenced in the Kansas District Court (hereinafter "KDC") without an [indictment] in violation of the United States Constitution's Fifth Amendment due process of the law Clause.

Attached hereto as Attachment 1 is "probative" documented face sheet record [evidence] provided by your Petitioner's "Criminal Docket Sheet Entries" (hereinafter Dkt #--), which conclusively show the KDC [terminated] the criminal prosecution in its entirety at the request of the AUSA [Aaron L. Smith] pursuant to a [nolle prosequi Motion to Dismiss] the June 21st, 2011, First Superseding Indictment- "in toto". See Attachment 1 (Dkt # 89 & 91).

Once the KDC "granted" the AUSA [nolle prosequi Motion to Dismiss] the June 21st, 2011, First Superseding Indictment on November 28th, 2011, (Dkt # 91) the KDC at that point in the

criminal proceeding effectively [divested] itself of all "statutory" and "personal" matter [jurisdiction] to proceed any further with prosecuting your Petitioner and his two co-defendant for any crimes or wrongful criminal conduct.

This is so, because the KDC's [dismissal] order of the June 21st, 2011, First Superseding Indictment- "in toto" (Dkt # 91) left no remaining counts, charges, or indictment pending at such point of the dismissal. The Black's Law Dictionary, along with the Merriam-Webster Dictionary (and all other dictionarys) plain and boldly defines the word "Supersede" as shown;

Supersede: (1). To annul, make void, or
repeal by taking the place of.

Based on this fixed meaning of the word "Supersede" from any dictionary, there can be no doubt that KDC's order [dismissing] the June 21st, 2011, First Superseding Indictment- "in toto" at the AUSA's request pursuant to a [nolle prosequi Motion to dismiss], (Dkt # 89 & 91), effectively [terminated] the criminal prosecution against your Petitioner and his two co-defendants.

Wherefore, all the proceedings that took placed [after] the KDC's dismissal order issued on November 28th, 2011, (Dkt #91), are an absolute [nugatory] and [void] for "want of an indictment" in violation of the United States Constitution's Fifth Amendment. These such proceedings and any judgments rendered by the KDC cannot be affirmed, ratified or enforced in any manner or to any degree.

Your Petitioner is being currently held in unlawful custody pursuant to a [criminal proceeding] that was commenced without an [indictment], in violation of the Fifth Amendment.

In a second respect, your Petitioner respectfully argues that not only was he criminally prosecuted without an "indictment", yet [he] was also tried for infamous crimes he was never indicted by a grand jury with violating.

Attachments 2 & 3 attached hereto, provides more "probative" [evidence] which supports your Petitioner's claim. Attachment 2 presents an "sworn" admission made by the AUSA [James A. Brown] conceding that your Petitioner was held at his [void] and [nugatory] criminal prosecution to answer for an infamous offense not stated in the indictment [before] it was dismissed. See Attachment 2. This document provides sufficient evidence that supports your Petitioner's claim that [he] was denied due process during his criminal proceeding.

Also Attachment 3 attached hereto, supports your Petitioners Fifth Amendment right violation claims and the AUSA's "sworn" admission that your Petitioner was convicted at his [void] and [nugatory] criminal trial for a crime not presented in the grand jury's indictment as originally returned [before] the KDC dismissed the indictment. This action acted upon by the KDC to allow your Petitioner to be convicted on an infamous offense not found by a grand jury violates the Fifth Amendment in the United States Constitution, and renders your Petitioner's criminal trial, convictions and sentences absolutely [null and void-ab initio].

In Ex Parte Bain, 30 L Ed 849, 121 US 1 (1887), the Court held that "upon an indictment so changed the can proceed no farther". There is nothing (in the language of the Constitution) which the prisoner can "be held to answer". A [trial] on such

indictment is [void]. There is nothing to try. The [prisoner] who stands sentenced to the penitentiary on such trial, is [entitled] to his discharge by [a Writ of Habeas Corpus]. The declaration of article V of the Amendments to the United States Constitution, that "no person shall be held to answer for a capital or otherwise infamous crime, unless on presentment or indictment of a grand jury", is [jurisdictional] and "no Court of the United States has authority to try the prisoner without an indictment or presentment in such cases".

The Bain Court also made clear that [indictments] are founded upon the "oath" of a grand jury, so they can only be [amended] by a grand jury. See Ex Parte Bain, 30 L Ed 849, 121 US 1 (1887); also see Ex Parte Wilson, 29 L Ed 89, 114 US 417; also see Ex Parte Lange, 85 US 18 Wall 163 [21:872]; Ex Parte Parks, 93 US 18 [23:787].

For these reasons stated herein and based on the evidence attached hereto, your Petitioner requests relief pursuant to the Habeas Corpus Statute 28 U.S.C.S. § 2241(a) (c)(3). Your Petitioner is being held in unlawful custody pursuant to a [criminal prosecution] which commenced without an indictment in the Kansas District Court, in violation of the United States Constitution's Fifth Amendment.

Your Petitioner is [entitled] to be discharged from his current unlawful imprisonment. See Ex Parte Yarbrough, 28 L Ed 274, 110 US 651 (1884).

PRAYER AND REQUESTED RELIEF

It is so prayed for by your Petitioner, that this honorable United States Supreme Court exercise the authority granted to it pursuant to 28 U.S.C.S. § 2241(a) (c)(3) and review the [merits] of his Habeas Corpus Application, via Certiorari review of the lower courts "lack of jurisdiction" [procedural] judgments [dismissing] his Habeas Corpus Application.

Your Petitioner submits that he is entitled to be discharged from his current unlawful imprisonment, which is shown herein to be in violation of the United States Constitution's Fifth Amendment.

Respectfully submitted,

~~Raymond L. Rogers~~
RAYMOND L. ROGERS, pro se
June 11th, 2018

§ 1746 Unsworn declarations under
penalty of perjury

"I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on June 11th, 2018.

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Respectfully signed,

~~Raymond L. Rogers~~
RAYMOND L. ROGERS, pro se

REASONS FOR NOT MAKING
APPLICATION IN THE DISTRICT OF CONFINEMENT

Your Petitioner submits that he did respectfully file his Habeas Corpus Application request pursuant to 28 U.S.C.S. §2241(a) (c) (3) in the Arkansas District Court, yet such Court [dismissed] his Habeas Corpus Application for "lack of jurisdiction". See Rogers v Beasley, 2:17-CV-00198-DPM-JTR. Likewise the Eighth Circuit Court of Appeals [affirmed] the Arkansas District Court's [procedural] judgment without opinion. See Rogers v Beasley, No. 18-1056 (8th Cir. 2018).

Your Petitioner submits that his Habeas Corpus Application of which he has now filed in this Court via his Certiorari request to review the lower courts [procedural] judgments, presents an "exceptional circumstance" for this Supreme Court to now review his Habeas Corpus Application in an [Ex Parte] proceeding. The lower courts [procedural] judgments can be "perceived" to constitute this Supreme Court's [appellate] jurisdiction and power to grant your Petitioner all the relief his Fifth Amendment due process rights violation claims entitles him to.

Your Petitioner has been held in custody unlawfully since the Kansas District Court [dismissed] his indictment at the USA's request on November 28th, 2011. See Attachment 1 (Dkt # 89 & 91). This [dismissal order] rendered by the Kansas District Court must be "adhered" to as the [procedural] posture in your Petitioner's criminal proceeding. Under the "Law of the Case" doctrine, your Petitioner's criminal prosecution was effectively [terminated] on

November 28th, 2011, and he is heretofore entitled to immediate [discharged] from his current unlawful imprisonment.

Your Petitioner's Habeas Corpus Application and the Fifth Amendment claims advanced within it can be determined and decided upon the attached evidence attached to his Habeas Corpus Application.

Your Petitioner [prays] that this United States Supreme Court, will grant Certiorari to grant his Habeas Corpus Application via an [Ex Parte] proceeding within this Court. Your Petitioner's litigation is "ripe" for this Courts "appellate" jurisdiction.

Also your Petitioner states that he has no other remedy to seek redress of the Fifth Amendment right violations he has endured pursuant to his criminal proceeding. This is so because without the Kansas Disrict Court having [statutory and personal] matter jurisdictio[n] to criminally prosecute your Petitioner, the Kansas District Court cannot exercise jurisdiction under 28 U.S.C.S. § 2255(a). This United States Supreme Court along with [Congress] has held that the § 2255 Motion to Vacate remedy is "[a] continuation of the defendants [criminal] proceedings".

Wherefore, without the Kansas District Court having [competent] jurisdiction in your Petitioner's [criminal] matter, such Court is also without [competent] jurisdiction to decide a § 2255 Motion to Vacate. All the judgments of a Court's beyond its jurisdiction are [void], and they cannot be affirmed, ratified or enforced in any manner or to any degree. The Kansas District Court's judgments in your Petitioner's [criminal] matter are not merely erroneous, they are absolutely [null & void].

Attachment 1

(1).

"PETITIONER'S CRIMINAL DOCKET SHEET"