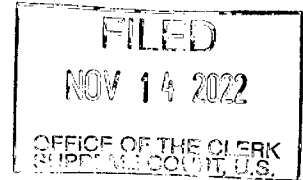


22-6144

Case No.

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



In re RICHARD DANIELS

ON PETITION FOR A WRIT OF HABEAS CORPUS
UNITED STATES DISTRICT COURT
DISTRICT OF MAINE
Title 28 U. S. Code § 2242

PETITION FOR EXTRAORDINARY
WRIT OF HABEAS CORPUS

Richard Daniels
B.O.P. 13251-036
Pharos House
5 Grant St.
Portland, ME 04101
(207) 774-6021

I. QUESTIONS PRESENTED

1. Whether being in federal custody is a substantial denial of Richard Daniels' constitutional right of liberty, without "sufficient cause," without compelling reasons for the United States Congress to proscribe marijuana as a dangerous substance, to be a drug trafficking crime, therefore without due process of law in violation of Amendments IV and V of the Constitution of the United States and is unconstitutional.

2. Whether the exceptional circumstance is the above question has never been decided by this Court.

PARTY TO THE PROCEEDING

Richard Daniels, B.O.P. 13251-036 is on in custody of:

RRM Philadelphia
Residential Reentry Office
2nd & Chestnut St.-7th Floor
Philadelphia, PA 19106
CPA-CCM@bop.gov Phone: (215)-521-7454

RRC-Pharos House <https://pharoshouse.org/> (207) 774-6021

RELATED CASE 28 U.S. Code § 2242

United States District Court, District of Maine

U. S. A. v. Daniels 2:18-cr-00063-GZS-1

Doc. No. 1115 Ordering Affirming Recommended Decision (5/19/2022)

Doc. No. 1105 Report and Recommended Decision on 28 U.S.C. §2255

Motion (4/8/2022)

Doc. No. 1071 § 2255 Motion to Vacate filed 12/1/2021

APPENDIX'S TABLE OF CONTENTS

United States District Court for the District of Maine

***U. S. A. v Daniels* 2:18 -cr- 63**

Appendix A. District Judge Ordering Affirming Recommended Decision
(5/19/2022) Doc. No 1115..... App. 1

Appendix B. Report and Recommended Decision on 28 U.S.C. §2255
Motion, (4/8/2022) Doc. No. 1105.....App. 3

Appendix C. § 2255 Motion filed 12/1/2021 Doc. No. 1071..... App. 10

Appendix D. Amended Criminal Judgment 7/7/2021 Doc. No. 1035
(relevant parts)App. 16

Appendix E. Table of AuthoritiesApp. 19

PETITION FOR EXTRAORDINARY WRIT OF HABEAS CORPUS

OPINIONS RELATED HABEAS RELIEF CASE BELOW

United States District Court for the District of Maine
U. S. A. v. Daniels 2:18-cr-00063-GZS-1

Doc. No. 1115 Ordering Affirming Recommended Decision, 5/19//2022. App. A. Doc.
No. 1105, Recommended Decision on 28 U.S.C. §2255 Motion, 4/8/2022. App. B
(Citations not known)

JURISDICTION

This Court has original jurisdiction by Title 28 U.S.C. § 2241 and Supreme
Court Rules 20. 4. (a)(b).

CONSTITUTIONAL AND STATUTORY PROVISIONS

Constitutional and Statutory provisions are listed in the Appendix E

STATEMENT

Petitioner filed application for habeas relief to the United States District Court for
the District of Maine in which the applicant was convicted. Applicant filed Title 28 Chapter
153 Habeas Corpus § 2255 Motion to Vacate 10/15/2021. App. 10.

12 "GROUND ONE: Mr. Daniels is in federal custody in violation of
Amendments IV and V of the Constitution of the United States.
There is a substantial denial of Mr. Daniels' constitutional right of
liberty, without compelling reasons for Congress to proscribe
marijuana therefore without due process of law." App. 12.

Supporting facts: App. 12.

13. Ground One has not been raised because of "ineffective
assistance of counsel" that was prejudicial. Counsel believes
criminal laws are not an Article III case or controversy ripe for
adjudication by this court under strict scrutiny standard of review.

Counsel believes the marijuana laws are constitutional because marijuana is not a fundamental right. Counsel treats laws that authorize the use of police power as a political question. Counsel violated solemn oath to uphold Amend IV limiting police power to be reasonable not rational. Counsel did not protect the right of Mr. Daniels' to be secure against unreasonable deprivation of his constitutional right of liberty, freedom from physical restraint, secured by Amendments IV and V. App. 13.

RELIEF: "To vacate Mr. Daniels conviction, restore his liberty, because Congress proscribing marijuana as a controlled dangerous substance, a drug crime, was unreasonable, without compelling reasons, without due process of law violating. Amendments IV & V." App. 15.

**Magistrate Judge Recommended
Decision on 28 U.S.C. § 2255 Motion,**

The court's analysis, App. 7, did not address the allegation of ground one of the § 2255 Motion to Vacate. The District Court declared: "certificate of appealability pursuant to Rule 11 of the Rules Governing Section 2255 Cases is hereby DENIED because there is no substantial showing of the denial of a constitutional right within the meaning of 28 U.S.C. § 2253(c)(2)." App. 2, 8.

Memorandum of Law

"The writ of habeas corpus [a privilege] is a high prerogative writ, known to the common law, the great object of which is the liberation of those who may be imprisoned without sufficient cause. *Ex Parte Watkins*, 28 U.S. 193, 202 (1830) Chief Justice Marshall. "Every person has a fundamental right to liberty" *Chapman v. United States*, 500 U.S. 453, 465. (1991). "[L]iberty [is. . .] freedom from bodily restraint." *Meyer v. Nebraska* 262 U.S. 390, 399 (1923). "[C]riminal statutes, be

subjected to the most rigid scrutiny.” *Loving v. Virginia*, 388 U.S. 1, 11 (1967)

We yet like to believe that, wherever the Federal courts sit, human rights under the Federal Constitution are always a proper subject for adjudication, and that we have not the right to decline the exercise of that jurisdiction simply because the rights asserted may be adjudicated in some other forum. *Zwickler v. Koota*, 389 U.S. 241, 248 (1967).

Upon the state courts, equally with the courts of the Union, rests the obligation to guard, enforce, and protect every right granted or secured by the Constitution of the United States and the laws made in pursuance thereof, whenever those rights are involved in any suit or proceeding before them, for the judges of the [federal] state courts are required to take an oath to support that Constitution, and they are bound by it, *Robb v. Connolly*, 111 U.S. 624, 637 (1884)

The validity of regulatory measures may be challenged on the ground that they transgress the Constitution, and thereupon it becomes the duty of the court, in the light of the facts in the case, to determine whether the regulation is reasonable and valid or essentially unreasonable, arbitrary and void. *Norfolk & W.R. Co. v Public Service Commission of West Virginia* 265 U.S. 70,74 (1924).

EXCEPTIONAL CIRCUMSTANCES FOR GRANTING PETITION FOR EXTRAORDINARY WRIT OF HABEAS CORPUS

Exceptional circumstances warrant the exercise of the Court’s discretionary powers to grant habeas relief, freedom from federal custody. Adequate relief cannot be obtained in any other form or from any other court.

Adequate habeas relief was not obtained in the United States District Court for the District of Maine. The district court denied certificate of appealability. Mr. Daniels is not being substantially denied of his constitutional right of liberty, freedom to walk away. The denial of a certificate of appealability was willful

deprivation of Mr. Daniels' liberty, without compelling reasons, without due process of law, under the color of law. Because what is a crime is not a liberty interest, not a fundamental right. Judicial review is rational basis. This is political police power.

This Court has declared liberty means more than physical restraint. *Washington v. Glucksberg* 521 U.S. 702, 719 -721 (1997). Challenges to constitutionality of criminal laws was based on a denial of a liberty interest. Those liberty interest, unenumerated rights, were always protected by enumerated rights to life, liberty, and property. Selling marijuana is not a liberty interest to be fundamental to have public approval by being historical and traditional.

The threatened and actual operation and effect of police power is the seizure of person and deprivation of liberty.

Convicted for violating federal marijuana laws, Mr. Daniels will be in federal custody until about 03/02/2028 for a total of 11 years. App. 16-18. This is a substantial denial of his constitutional right of liberty. Any reasonable person would agree except officers of the law courts. He has been denied equal protection of his liberty, freedom from physical restraint. He does not have a liberty interest in liberty. He was denied the right of due process of law to know the compelling reasons why the Congress of the United States proscribe marijuana as a dangerous substance. Mr. Daniels was denied standing, a concrete injury to his rights secured by Amendment IV and V of the Constitution of the United States. The question presented is an Article III case and controversy, subjected to strict scrutiny judicial

review not rational basis.

Exceptional circumstances warrant the exercise of the Court's discretionary powers to grant the writ habeas corpus. "One's right to life, liberty, and property , . . may not be submitted to vote; they depend on the outcome of no elections. *West Virginia Board of Education v. Barnette*, 319 U.S. 624, 638 1943. There is no adequate relief but from this Court.

There is no need to order a response. Majority of states have legalized medical and recreation use of marijuana in violation of Article VI of the Constitution of the United States.

CONCLUSION

With exceptional circumstances the Court should use its discretion and AFFIRM the question presented and GRANT extraordinary writ of habeas corpus, habeas relief. Adequate relief cannot be obtained in any other form or from any other court.

Respectfully submitted,

/s/Richard Daniels
B.O.P. 13251-036
Pharos House
5 Grant St.
Portland, ME 04101
(207) 774-6021

Dated: November 14, 2022