

Case No. 22-7593

IN THE
SUPREME COURT OF THE UNITED STATES

In re: EDWIN W. RUBIS

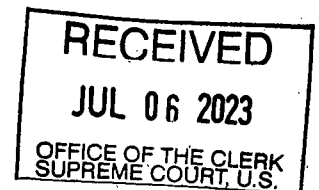
On Petition for Writ of Habeas Corpus to the
Supreme Court of the United States

PETITION FOR REHEARING

EXTRAORDINARY
WRIT OF HABEAS CORPUS
WITH APPENDIX
PURSUANT TO 28 U.S.C. § 2241

CHIEF JUSTICE ROBERTS

Edwin W. Rubis pro se
Reg No. 79282-079
FCI Talladega
PMB 1000
Talladega, AL 35160



PETITION FOR REHEARING
EXTRAORDINARY WRIT OF HABEAS CORPUS

Rule 44. Rehearing 2.

The “grounds” for this petition for rehearing are limited to two “intervening circumstances of a substantial or controlling effect.”

A. The Office of the Clerk has applied nonapplicable rules, Rule 14. 1. (g) 1. (h) to a petition for writ of habeas corpus.

B. Court Rule 20. 4. (b) for governing habeas corpus is inconsistent with federal laws, 28 U.S.C. § § 2241, 2242 and § 2243 violating 28 U.S.C. § 2071.

A.

The Office of the Clerk has applied nonapplicable rules, Rule 14.1.(g) 1. (h), to a petition for writ of habeas corpus that resulted in the denial of the petition as writ certiorari.

28 U.S. Code § 951 - Oath of office of clerks and deputies

Each clerk of court and his deputies shall take the following oath or affirmation before entering upon their duties: “I, ___ ___, having been appointed ___, do solemnly swear (or affirm) that I will . . . faithfully and impartially discharge all other duties of my office according to the best of my abilities and understanding. So help me God.”

Rule 20. 2. “The petition shall be captioned “In re [name of petitioner]” and shall follow, insofar as applicable, the form of a petition for a writ of certiorari prescribed by Rule 14.” Key word is “applicable.”

The first filing was returned to Mr. Rubis. The Office of the Clerk stated in a letter dated April 13, 2023:

“The petition does not follow the form prescribed by Rule 14 as required by Rule 20. 2. The petition must contain a concise statement of the case and the reasons relied on for allowance of the writ. Rules 14.1(g) and 14.1(h).” (Attached)

These Rules, 14.1(g) and 14.1(h) plus Rule 10, are for writs of certiorari only. They apply to an appeal of a decision from lower federal or state courts. They are not applicable to a writ of habeas corpus to this Court having original jurisdiction.

The Mr. Rubis’ second petition was placed on the docket, distributed to the Court, and denied. The petition still did not comply with Rules “14 (g)(h)” because they are not “applicable” to any petition for writ of habeas corpus to this Court, a justice thereof. The office of the clerk is denying this Court has original jurisdiction. Even thou the petition is stamped “ORIGINAL.”

Rule 20. 4. (b). “Neither the denial of the petition, without more, nor an order of transfer to a district court under the authority of 28 U. S. C. § 2241(b), is an adjudication on the merits, and therefore does not preclude further application to another court for the relief sought.”

20.4.(a). Adequate “relief cannot be obtained in any other form or from any other court.” Applicant is timed barred 20 + years from “making application to the district court of the district in which the applicant is held.” 28 U.S. Code § 2255 (f)

“A 1- year period of limitation shall apply to a motion under this section.”

B.

Court Rule 20. 4. (b) for governing habeas corpus is inconsistent with federal laws, 28 U.S. Code §§ 2241, 2242 and 2243 violating 28 U.S. Code. § 2071.

Rulemaking powers generally. (a) The Supreme Court and all courts established by Act of Congress may from time to time prescribe rules for the conduct of their business. Such rules shall be consistent with Acts of Congress . . .

An application for writ of habeas corpus to this Court is to a justice thereof to order a response. It is not distributed to the Court by Rule 20. 4.(b) to order the response.

Rule 20.4.(b) “Habeas corpus proceedings, except in capital cases, are ex parte, unless the Court requires the respondent to show cause why the petition for a writ of habeas corpus should not be granted. “

§ 2243 “A court, justice or judge entertaining an application for a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted.” Or, deny it.

Court Rule 20. 4. (b) is inconsistent with 20.4 (a) “A petition seeking a writ of habeas corpus shall comply with the requirements of 28 U.S.C. § § 2241 and 2242.”

28 U.S.C. § 2241.

(a) Writs of habeas corpus may be granted by the Supreme Court, any justice thereof, the district courts and any circuit judge within their respective jurisdictions.

(b) The Supreme Court, any justice thereof, . . . may decline to entertain an application for a writ of habeas corpus and may transfer the application for hearing and determination to the district court having jurisdiction to entertain it.

(c) The writ of habeas corpus shall not extend to a prisoner unless—

(3) He is in custody in violation of the Constitution [. . .]

Rule 20. 4. (a). Justifying “the granting of a writ of habeas corpus, the petitioner” claimed §2241(c)(3) is the “exceptional circumstance,” an Article III case and controversy.

Mr. Rubis is in federal custody deprived of his liberty without compelling reasons for the Congress of the United States to proscribe marijuana as a dangerous substance, therefore without due process of law violating Amendments IV and V of the Constitution of the United States.

§ 2242. “Application for a writ of habeas corpus shall be in writing . . . If addressed to the Supreme Court, a justice thereof or a circuit judge it shall state the reasons for not making application to the district court of the district in which the applicant is held.” Applicant is timed barred by 20+ years. 28 U.S.C. § 2255 (f).

The word “Court” in 20. 4. (b) is inconsistent with its use in §§§ 2241, 2242 and 2243 referring to the district courts, therefore violating 28 U.S.C. § 2071.

CONCLUSION

The Office of the Clerk of the Supreme Court of the United States should comply with Rule 20.2. by applying Rule 14 where applicable to the form of the petition for writs of habeas corpus, to this Court having original jurisdiction,

The Clerk of the Court should take note that Rule 20.4. (b) is inconsistent with Title 28 U.S. Code § § 2241, 2243 violating 28 U.S. Code § 2071 and transmit this petition for rehearing promptly to Chief Justice Roberts for his consideration.

Respectfully submitted,

/s/ Edwin W. Rubis
Reg No 79282-079
FCI Talladega
PMB 1000
Talladega, AL 35160

Dated: June 29, 2023

**SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001**

April 13, 2023

Edwin Rubis
#79282-079
FCI Talladega
P.O. Box 1000
Talladega, AL 35160

RE: In Re Rubis

Dear Mr. Rubis:

The above-entitled petition for an extraordinary writ of habeas corpus was received on April 11, 2023. The papers are returned for the following reason(s):

The petition does not follow the form prescribed by Rule 14 as required by Rule 20.2. The petition must contain a concise statement of the case and the reasons relied on for allowance of the writ. Rules 14.1(g) and 14.1(h).

Sincerely,
Scott S. Harris, Clerk
By:

Emily Walker
(202) 479-5955

Enclosures