

ORIGINAL

No. _____

25-6395

FILED

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OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

In Re WILFREDO FELICIANO-RODRIGUEZ — PETITIONER
(Your Name)

ON PETITION FOR A WRIT OF MANDAMUS

PETITION FOR WRIT OF MANDAMUS

Wilfredo Feliciano-Rodriguez

(Your Name)

P.O. Box 5000

(Address)

Yazoo City, MS 39194

(City, State, Zip Code)

N/A

(Phone Number)

QUESTION(S) PRESENTED

1. Whether the Court of Appeals violated its constitutional duty by failing to determine the absence of federal subject-matter jurisdiction after the government omitted its opposition brief and instead filed a motion for summary disposition in Case Nos. 23-1405, 23-1706, and 23-1520, while simultaneously arguing that the District Court possessed federal jurisdiction because Puerto Rico is "a current territory of the United States."
2. Whether the repeated failure of the lower courts to address the jurisdictional challenge -- despite clear constitutional and statutory mandates -- constitutes an abuse of judicial power warranting the issuance of a writ of mandamus.

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:

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OTHER

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF MANDAMUS

Petitioner respectfully prays that a writ of mandamus issue.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix B 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 is unpublished.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 A 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 is unpublished.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 is unpublished.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 is unpublished.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 pending

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: _____, 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. § 1651(a).

This is a petition for a writ of mandamus to issue an order to the Court of Appeals while my case is pending their review.

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

U.S. Constitution, Amendment V:

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury . . ."

U.S. Constitution, Amendment V:

"nor shall any person . . . be deprived of life, liberty, or property without due process of law . . ."

U.S. Constitution, Amendment XIV:

". . . nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Statutes Involved

18 U.S.C. § 3231:

"Nothing in this title shall be held to take away or impair the jurisdiction of the Courts of the several states under the laws thereof."

28 U.S.C. § 2244(b)(3)(D):

"The court of appeals shall grant or deny the authorization to file a second or successive application not later than 30 days after the filing of the motion."

28 U.S.C. § 1651(a):

"The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law."

STATEMENT OF THE CASE

1. In March 2004, a grand jury returned a six-count superseding indictment charging drug trafficking and firearms violations against Petitioner and 11 co-defendants. (DE 60). After a 11-day jury trial, Petitioner was found guilty of all counts. (DE 427-29). The district court sentenced Petitioner to life imprisonment as to Counts One and Two, 7 years as to Count Four, and 25 years as to Count Six. (DE 460).

Petitioner appealed. (DE 462). The Court of Appeals affirmed Petitioner's conviction and sentence for the drug trafficking count, but vacated the firearms count of conviction and two firearms sentences, remanding for resentencing.

United States v. Rodriguez, 525 F.3d 85, 112 (1st Cir. 2008).

At the 2008 resentencing hearing, the district court followed the Court's instructions and resentenced petitioner to a term of 20 years as to Count Two, to be served concurrently with his life sentence in Count One, and consecutively to a five-year sentence in Count Six. (DE 546 at 15). Petitioner appealed and the Court of Appeals affirmed in early 2010. (DE 535, 537, 566-67).

In 2011, Petitioner submitted an amended pro se motion to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255 in Civil Case No. 11-1655 (CCC). (DE 2, CV11-1655). He raised multiple ineffective assistance of counsel claims against both trial and appellate counsel, including rejection of a 15-year plea offer and failure to contest the prosecutor's alleged presentation of false, prejudicial and inflammatory agent's testimony before the grand jury. (Id.). The government opposed, requesting Petitioner's petition to be denied. (DE 6 at 1 & 24, DE CV11-1655). Petitioner replied. (DE 8, CV11-1655). And he was allowed to file a supplemental § 2255 petition. (DE 10-13, CV11-1655). After appointment

of counsel and an evidentiary hearing regarding the rejected 15-year plea offer, a magistrate judge issued a lengthy report recommending the entire denial of Petitioner's § 2255 petition. (DE 14-15, 33, 39, CV11-1655). The district court entered a judgment approving and adopting the magistrate judge's Report and Recommendation and denying Petitioner's § 2255 petition. (DE 40, CV11-1655). Accordingly, the court dismissed the action. (Id.). And found that "[n]o certificate of appealability shall not be issued." (Id.) Petitioner appealed. (DE 41, CV11-1655). In early 2021, the Court of Appeals affirmed the district court's "decision" and "denied" Petitioner's "petition for habeas corpus." (DE 54, CV11-1655; see CV11-1655).

But two years later, after the Court of Appeals affirmed the first § 2255 district court's denial, the Petitioner received confidential files of his case via mail. When the Petitioner started carefully studying his case, after an exhaustive investigation, he found evidence of potential facts that substantiated that his case should never have been prosecuted under federal jurisdiction. Due to the evident fact that prosecution was performed with lack of subject-matter jurisdiction for the simple reason that all evidence proves that the only jurisdiction applicable, in this case, is only for the Commonwealth of Puerto Rico as the record unequivocally shows. See Appendix D (Copy of Local Prosecutorial Proceeding). This substantial question of law and fact raises the urgency of granting this petition after twenty-one years of illegal imprisonment which has caused the Petitioner an egregious prejudice.

2. On May 15, 2023, Petitioner challenged the district court's lack of federal subject-matter jurisdiction which was denied on May 24, 2023, holding as follows: "Having reviewed the record, the motion is denied."
3. On appeal (No. 23-1405, 23-1520, and 23-1706), the government did not file its opposition brief, submitting instead a motion for summary disposition, which was

granted on August 7, 2025, after more than two years of waiting for a decision.

4. The Court of Appeals denied the appeal without addressing the jurisdictional defect. This is palpably erroneous. The district court, Court of Appeals, and the government have fatally erred.

This court has jurisdiction to issue a writ of mandamus under the All Writs Act, 28 U.S.C. § 1651(a), where a lower court or judicial body has failed to exercise a mandatory, nondiscretionary duty. Mandamus is appropriate where a petitioner has no other adequate means to obtain relief, the right to issuance of the writ is "clear and indisputable," and the writ is necessary to prevent a miscarriage of justice.

REASONS FOR GRANTING THE PETITION

The Petitioner respectfully submits that the record in this case contains clear, direct, and convincing evidence demonstrating that his prosecution and conviction occurred in the complete absence of federal subject-matter jurisdiction. The Petitioner has substantiated, through undisputed documents and the official record, that his case presents truly exceptional circumstances characterized by a judicial usurpation of power. Such a jurisdictional defect is structural, non-waivable, and renders all subsequent actions by the district court void ab initio.

Because of this, the extraordinary remedy of mandamus is not only appropriate but necessary. Mandamus is justified when a lower court acts beyond the scope of its lawful authority, and here both the district court and court of appeals for the First Circuit failed to address or correct the fundamental jurisdictional defect, despite the compelling evidence before them. The Petitioner has demonstrated that from the very beginning of the investigation, the district court lacked federal subject-matter jurisdiction, and every action taken thereafter inflicted severe harm upon the Petitioner and undermined the fair administration of justice and the guarantees of due process.

Furthermore, the Petitioner has no other adequate means to obtain relief. Both the district court and court of appeals have declined to acknowledge or remedy the jurisdictional void, even though the truth reflected in the record makes the absence of federal jurisdiction undeniable. Because no other remedy exists that could secure the justice to which the Petitioner is entitled, this Court's intervention through the extraordinary writ of mandamus is the only avenue left to correct a manifest injustice.

This petition warrants this Court's intervention because it presents an exceptionally serious and ongoing constitutional violation -- one that has resulted in the Petitioner's imprisonment for over twenty-one years without any evidence of valid federal subject-matter jurisdiction. From the outset of the criminal proceedings, the federal government has never demonstrated -- and cannot demonstrate -- the existence of subject-matter

jurisdiction, an indispensable prerequisite for a federal court to exercise authority in a criminal case. Despite this fundamental defect, both the district court and the court of appeals have repeatedly failed to fulfill their constitutional duty to verify jurisdiction sua sponte, even when the absence of jurisdiction has been clearly raised and remains undisputed. Rather than cure this foundational flaw, the government compounded it by failing to file its brief in appeal No. 23-1405, 23-1520, and 23-1706, and instead submitted a motion for summary disposition urging the court of appeals to deny the appeal without reaching the merits. See Appendix E. Paradoxically, in that same motion the government asserted -- without legal analysis or evidentiary support -- that the district court possessed subject-matter jurisdiction solely because Puerto Rico "is a territory of the United States."

That argument willfully ignores the constitutional and political reality that Puerto Rico ceased being a United States territory in 1952, when it became a sovereign commonwealth with its own legislative and judicial authority. See Appendices D and G. Consequently, any crime arising entirely within Puerto Rico, with no affect whatsoever on interstate or foreign commerce, falls exclusively within the local jurisdiction of the Commonwealth of Puerto Rico, not the federal government.

The government's actions violated 18 U.S.C. § 3231, which safeguards the proper allocation of jurisdiction between federal and state authorities. By unlawfully asserting federal authority, the government stripped the Commonwealth of Puerto Rico of its rightful jurisdiction, usurped the sovereign prosecutorial power of the local government, and presented a purely local offense to a federal grand jury, the federal district court, and the court of appeals under false pretenses. See Appendices C and D. Through its misconduct and bad faith, the government has tainted the integrity of the judicial process, and deprived the Petitioner of due process of law and the protections guaranteed by the constitution in Amendments V and XIV. See Appendix E (pg. 18, ln. 7-19; pgs. 19-20). This conclusory and unsupported statement violated due process and prevented the court of appeals from confronting the central issue in this case: whether

federal jurisdiction exists at all. Despite having direct notice of the alleged lack of jurisdiction, the court of appeals failed to conduct the mandatory examination disregarding its obligation to ensure that a federal conviction does not stand without legal foundation. The court's inaction has allowed the Petitioner to remain unlawfully incarcerated for more than two decades -- an extraordinary abuse of judicial authority and an irreparable harm that only this Court can remedy.

Under these exceptional circumstances, a federal conviction sustained without jurisdiction, a procedural history marked by governmental omissions, legal contradictions, and the court of appeals' refusal to carry out its constitutional duty -- the extraordinary remedy of mandamus is not only appropriate but necessary. This court must intervene to restore the rule of law, correct a structural judicial error, and prevent the continuation of an injustice that undermines the integrity of the federal judicial system, protect federalism and prevent further erosion of public trust in the administration of justice.

Argument in Support of Granting the Petition

Rule 27.0(c) of the First Circuit Court of Appeals permits summary disposition only if no substantial question is presented. However, the Petitioner has raised a jurisdictional defect of constitutional magnitude: the complete absence of federal subject-matter jurisdiction, as no grand jury indictment was returned against him in Case No. 04-0052 (PAD). This issue is not merely substantial -- it is fundamental, as the Supreme Court has held that defects in subject-matter jurisdiction can be raised at any stage of the proceedings and cannot be waived. United States v. Cotton, 535 U.S. 625, 630 (2002). The court's failure to address this issue undermines the integrity of the judicial process, making it inappropriate for summary disposition under Rule 27.0(c).

The First Circuit Court of Appeals erred in denying Petitioner's appeal by granting the government's motion for summary disposition under Rule 27.0(c). The court's rationale -- that the district court lacked jurisdiction to consider Petitioner's motions and that prior authorization was required. See Appendix B. Contravenes fundamental principles

of federal jurisdiction and constitutes an abuse of discretion. See United States v. Ruiz, 536 U.S. 622 (2002); and United States v. Mine Workers, 330 U.S. 258 (1947).

1. The District Court Had Inherent Authority to Review its Jurisdiction

Federal Courts have an "independent obligation" to determine their own jurisdiction, even if not raised by the parties. Ruhrgas v. Marathon, 566 U.S. 574 (1999). The district court thus had jurisdiction to consider Petitioner's challenge of the absence of federal subject-matter jurisdiction -- a defect that can be raised "at any time." See United States v. Cotton, 535 U.S. 625 (2002). Moreover, this court under FW/PBS, Inc. v. Dallas, 493 U.S. 215, 231 (1990) held as follows:

"Neither the District Court nor the Court of Appeals determined whether petitioners had standing to challenge any particular provision of the ordinance. Although neither side raises the issue here, we are required to address the issue even if the courts below have not passed on it, see Jenkins v. McKeithen, 395 U.S. 411, 421 (1969), and even if the parties fail to raise the issue before us. The federal courts are under an independent obligation to examine their own jurisdiction, and standing "is perhaps the most important of [the jurisdictional] doctrines." Allen v. Wright, 468 U.S. 737, 750 (1984).

"[E]very federal appellate court has a special obligation to 'satisfy itself not only of its own jurisdiction, but also that of the lower courts in a cause under review,' even though the parties are prepared to concede in it. Mitchell v. Maurer, 293 U.S. 237, 244 (1934). See Juidice v. Vail, 430 U.S. 327, 331-32 (1977) (standing). And if the record discloses that the lower court was without jurisdiction this court will notice the defect, although the parties make no contention concerning it.' " Bender v. Williamsport Area School Dist., 475 U.S. 534, 541 (1986).

It is a long-settled principle that standing cannot be "inferred argumentatively from averments in the pleadings," Grace v. American Central Ins. Co., 109 U.S. 278, 284 (1883), but rather "must affirmatively appear in the record." Mansfield C. & L. M. R. Co. v. Swan, 111 U.S. 379, 382 (1884). See King Bridge Co. v. Otoe County, 120 U.S. 225, 226 (1887) (facts supporting Article III jurisdiction must 'appeal[r] affirmatively in the record.'). And it is the burden of the party who seeks the exercise of jurisdiction in his favor, McNutt v. General Motors Acceptance

Corp, 298 U.S. 178 189 (1936), "clearly to allege facts demonstrating that he is a proper party to invoke jurisdictional resolution of the dispute."

Warth v. Seldin, 422 U.S. 490, 518 (1975). Thus, petitioners in this case must "allege . . . facts essential to show jurisdiction. If [they] fail[1] to make the necessary allegations, [they have] no standing." McNutt, supra at 189."

Also, under Ex Parte Parks, 93 U.S. 18 (1876), this Court has held:

"The power of the Supreme Court is subject to a further limitation, arising from its constitutional want of original jurisdiction on the subject; from whence it follows that, except in aid of some other acknowledged jurisdiction, it can only issue the writ to review the action of some inferior court or officer. Ex Parte Barry, 2 How. 65. From this review of the law it is apparent, therefore, as before suggested that, in a case like the present, where the prisoner is in execution upon a conviction, the writ ought not to be issued, or, if issued, the prisoner should at once be remanded, if the court below had jurisdiction of the offense, and did not act beyond the powers conferred upon it. The court will look into the proceedings so far as to determine this question. If it finds that the court below has transcended its powers, it will grant the writ and discharge the prisoner, even after judgment.

Ex Parte Kearney, 7 Wheat. 38. But if the court had jurisdiction and power to convict and sentence, the writ cannot issue to correct a mere error. We have shown that the court below had power to determine the question before it; and that this so, is further manifest from the language of Chief Justice Marshall in the case of Tobias Watkins, 3 Pet. 203. He there says: 'To determine whether the offenses charged in the indictment be legally punishable or not, is among the most unquestionable of its [the court's] powers and duties.'

2. No Gatekeeping Requirement for Jurisdiction Claims

While 28 U.S.C. § 2244(b)(3)(A) requires prefiling authorization for a second or successive § 2255 motion, this does not apply to a challenge to the court's original jurisdiction. Such challenges are not subject to collateral-review restrictions and must be addressed on the merits. Ex Parte Bain, 121 U.S. 1, 13 (1887).

A. Petitioner filed an application under 28 U.S.C. § 2244(b)(3)(A) and § 2255(h) for presenting newly discovered, clear and convincing evidence demonstrating:

- * Actual innocence
- * Lack of federal subject-matter jurisdiction; and
- * The absence of any federal grand jury, superceding indictment ever being returned against Petitioner.

B. The application also included direct evidence of:

- * Brady / Giglio violations
- * Use of perjured testimony
- * Government misconduct
- * Fraud on the court; and
- * A structural jurisdictional defect that invalidates all proceedings which span more than 21 years.

C. Petitioner subsequently filed an Emergency Reconsideration Motion, as well as a separate motion requesting that the court fulfill its mandatory obligation to verify the existence -- or absence -- of federal subject-matter jurisdiction, which no federal court has ever performed.

D. Despite the gravity of the issues and the statutory mandate, the court of appeals has not ruled on any of the pending motions for over three months.

Statutory Violation: Failure to Issue a Timely Decision

Congress expressly commanded that:

"The court of appeals shall grant or deny the authorization to file a second or successive application not later than 30 days after the filing of the motion."
28 U.S.C. § 2244(b)(3)(D).

Petitioner's motions have been pending for over 90 days -- triple the statutory limit. This constitutes a clear violation of the law and deprives Petitioner of a statutory right to a prompt resolution. No exceptional circumstances justify this delay, and no order extending the period has been issued. The court's inaction effectively suspends the statute and unlawfully denies Petitioner access to the remedy Congress created.

Ex Parte Peru, 318 U.S. 578 (1943); Ex Parte United States, 287 U.S. 241 (1932).

Extraordinary Circumstances Warranting Mandamus

Mandamus is appropriate here because:

1. Petitioner is currently imprisoned under a judgment that is void for lack of federal subject-matter jurisdiction. For more than twenty years the Petitioner has been imprisoned by a case which lacks subject-matter jurisdiction which makes null all proceedings and judgments because the government never proved in its summary disposition motion existence of subject-matter jurisdiction. To the contrary, it affirms that Puerto Rico "is" a territory of the United States in order to ensure subject-matter jurisdiction when it is well known that Puerto Rico ceased to be a territory in 1952. See United States v. Mercado-Flores, 312 F. Supp. 3d 249 (D.P.R. 2015), where Judge Gelpi affirms:

"While the United States District Court for the District of Puerto Rico recognizes that Puerto Rico continues to be governed by the scope of the Territorial Clause. Congress may not legislate as to purely local matters governed by the Puerto Rico Constitution, as binding United States Court of Appeals for the First Circuit precedent denotes. 'The mere fact that the Commonwealth is still within the ambit of the Territorial Clause does not render it an unincorporated territory for the purposes of statutory interpretation. Rather, the Territorial Clause continues to allow Congress to treat Puerto Rico differently from the States in as much as Federal legislation is concerned, but not as to purely local intrastate affairs.' "

See also Judge Ruiz Naziro's opinion in United States v. Figueroa Rios, 140 F. Supp. 376 (D.P.R. 1956), holding that:

"The statutory laws of the United States [are] not locally applicable. . . . If only to be consistent, Congress would not have applied a section for the policing of areas with a classical territorial form of government, directly under Congressional government to an area with its own constitution, subject to no supervision, in local matters, by the Federal government." "Also compare Mora v. Mejias, D.C., 115 F. Supp. 610, 612, where this court held that 'within the indictment and policy of Section 2281, Title 28 U.S.C.A. the Commonwealth of Puerto Rico must be considered a State and thus a three judge court -- in order to avoid 'unnecessary interference with the laws of a sovereign state', Steinbeck v. Mo Hock Ke Lok PO, 336 U.S. (368) 377-378, 69 S. Ct. (606) 611 (93 L. Ed. 741), has to be convened in this case. . . . At present, such local

transactions or conduct are to be dealt with by the Commonwealth under its own Constitution and internal laws, and it would be frustrating of the very purpose and intention of Congress in establishing the new status to now hold that said statute may accomplish by indirection the very thing that Congress expressly wanted to leave in the hands of the Commonwealth's government. . . . The Commonwealth legislature and governor reign supreme over all matters of local concern."

Following which the Petitioner demonstrated with direct evidence contained in the record that subject-matter jurisdiction did not exist. The government should never take away jurisdiction of the Commonwealth of Puerto Rico in violation of 18 U.S.C. § 3231 that provides:

"Nothing in this title shall be held to take away or impair the jurisdiction of the courts of the several States under the law thereof."

This part of the statute the government omitted to its own benefit. Also, Congress enacted 48 U.S.C. § 734"

"[T]he statutory laws of the United States are not locally applicable, except as hereinbefore or hereinafter otherwise provided, shall have the same force and effect in Puerto Rico as in the United States. . . ."

The government knowingly and intentionally transformed a local case into a federal case without showing any nexus whatsoever which could link to federal jurisdiction. The indictment shows that no violation exists on the part of the Petitioner in the testimony of the special agent Toro presented to the grand jury, on January 15 and 29, 2004, and there is nothing in special agent Toro's other testimonies during the investigation of Negociado de Investigaciones Especiales (NIE) "Negotiation of Special Investigations" of Puerto Rico before the grand jury. Also, there is no evidence in the trial transcripts records before the grand jury on January 17, 2006, where special agent Toro testified (Docket #395). There are no documents, records, or evidence that connects with another state, or foreign commerce, in the testimonies of the agents Juan Quintero, Samuel Perez, or Israel Arroyo Mendre, January 19, 2006 (Docket #403). The testimony of agent Luis Torre shows that the Petitioner did not violate the laws of the United States, January 20, 2006 (Docket #404). As is also shown with the testimonies of the witnesses from the government, Omar Medina

Torres and Oscar Espada. They said nothing that connected the offenses committed with federal jurisdiction on their testimonies, on January 18, 2006 (Docket #398) and February 1, 2006 (Docket #417). Without any doubt the evidence clearly shows that the Petitioner was erroneously judged under federal jurisdiction because there is no evidence of the Petitioner violating any federal law nor connecting him with federal jurisdiction. Therefore it is (Centro Judicial de Carolina), Carolina's State Court as the only one which has jurisdiction over this particular crime committed in Nuestra Senora de Covadonga Housing Project. The government, in violating the U.S. Constitution, Amendment XIV and federal statute 18 U.S.C. § 3231, took away from Carolina's State Court of Puerto Rico its legitimate jurisdiction.

Petitioner respectfully states that it would be useless to insist on what the district court and government know perfectly well. Because, if the U.S. District Court for the District of Puerto Rico, when this case began in 2004 had taken the responsibility to inquire, *sua sponte*, in its obligation to determine if it had subject-matter jurisdiction in this case, then the Petitioner would not have suffered the egregious prejudice during all of these years as it is affirmed by the First Circuit Court of Appeals in McCulloch v. Velez, 364 F.3d 1, 5 (1st Cir. 2004), stated as follows:

"Further, a court has 'an obligation to inquire *sua sponte* into its own subject-matter jurisdiction.' "

Also, the Supreme Court held under Arbaugh v. Y&H Corp., 546 U.S. 500 (2006) as follows:

"Courts, including [this Court], have an independent obligation to determine whether subject-matter jurisdiction exists, even in the absence of a challenge from any party."

In this case, none of the offenses alleged are against criminal laws of the United States but against criminal laws of the Commonwealth of Puerto Rico, as the testimony before the grand jury evidences. Which means that the attorney for the United States brought the crime investigation to seek charges to the wrong grand jury. This is clearly evidenced when on January 18, 2006 in the trial the defense counsel is cross-examining special agent for the investigation of the case, Agent Toro, inquiring (See Transcript of Jury Trial,

page 31, lines 7-25; pages 32-50; and page 52, lines 6-11), about the investigation showing that no offenses against the criminal laws of the United States was committed by the Petitioner, yet the offenses committed were in Covadonga Project Housing which evidences that there is only a violation of Commonwealth of Puerto Rico's criminal law. In this case, it can be clearly seen that it is the Commonwealth of Puerto Rico which makes all investigations dealing with it. All payments for the investigation were made by the Commonwealth of Puerto Rico and the investigation rests in the "Negociado de Investigaciones Especiales (NIE) de Puerto Rico" under Case No. 02-078. All of this evidence proves that this case is a Commonwealth of Puerto Rico case that was taken away by the federal government in violation of its own statute, 18 U.S.C. § 3231, and also of the Fourteenth Amendment to the U.S. Constitution. There is another case dealing with drugs in Covadonga just like this case but the guy is at that time in custody in jail. He has a state case. He was arrested for dealing drugs in Covadonga (see Grand Jury Investigation, January 15, 2004, testimony of agent Anthony Toro Zambrana, page 9, lines 5-21):

5. BY MR. MILES: Q In addition to the particular
6. individual you had conducting videotape surveillance were you
7. able to develop any other informants in the Covadonga Housing
8. project?
9. Yes, sir.
10. Q And who that be?
11. A People who have been arrested on Nuestra Senora de
12. Covadonga dealing with drugs.
13. Q Nestor Guzman Pizarro, does that name ring a bell?
14. A yes, sir.
15. Q Who is he?
16. A He's a guy who is right now in custody, in jail. He has
17. a State case. He was arrested dealing drugs in
18. Covadonga.

19. Q So, he has some background knowledge of what was going
20. on there?
21. A Yes, sir."

The United States' witness Nestor Guzman Pizarro, under exactly the same circumstances as the Petitioner was prosecuted correctly in Puerto Rico's State Court that should have been the jurisdiction to prosecute the Petitioner.

"For nearly two centuries it has been clear that, lacking a police power, Congress cannot punish felonies generally. A criminal act committed wholly within a state cannot be made an offense against the United States, unless it have some relation to the execution of a power of Congress or to some matter within the jurisdiction of the United States." Bond v. United States, 572 U.S. 844 (2014) (Roberts, C.J., and

Kenedy, Ginsburg, Breyer, Sotomayor, and Kagan, JJ, concurring).

"Without jurisdiction the Court cannot proceed at all in any cause. Jurisdiction is power to declare the law and when it ceases to exist, [2021 U.S. App. LEXIS 12] the only function remaining to the court is that of announcing the fact and dismissing the cause. Steel Co., 523 U.S. at 94 (quoting Ex parte McCardle, 74 U.S. 506, 7 Wall. 506, 514, 19 L. Ed. 264 (1868)). Moreover, few, if any, precepts are more fundamental than that 'federal courts are courts of limited jurisdiction, 'constrained to exercise only the authority [1] conferred by Article III of the Constitution and [2] affirmatively granted federal statute.'

In re Bulldog Trucking Inc., 147 F. 3d 347, 352 (4th Cir. 1998) (quoting Owen Equip & Erection Co. v. Kroger, 437 U.S. 365, 374, 98 S. Ct. 2396, 57 L. Ed. 2d 274 (1978))." Federal courts are obliged to resolve questions pertaining to subject-matter jurisdiction before addressing the merits of a case. Constantine v. Rectors & Visitors of George Mason Univ., 411 F. 3d 474, 480 (4th Cir. 2005).

Moreover, United States v. Mercado-Flores, 312 F. Supp. 3d 249, Judge Gelpi reaffirms Puerto Rico's status as follows:

"The court flatly disagrees with the Government's contention that it is not well-settled law that Puerto Rico is no longer a mere unincorporated territory of the United States for purposes of statutory interpretation. Without repeating the thorough discussion in its Opinion and Order, the court reiterates that

following 1952, the Supreme Court and the First Circuit have consistently recognized the significant change in the degree of autonomy exercised by Puerto Rico in light of the many Congressional actions that transformed the island from a mere territory to that of the unique status of a commonwealth. (See Docket No. 46 at 4-11.) In response to this legislative history and in line with the established principle that the question of '[w]hether and how a federal statute applies to Puerto Rico is a question of Congressional intent,' the Supreme Court and courts within [2015 U.S. Dist. LEXIS 6] the First Circuit have repeatedly held that Puerto Rico constitutes a State for purposes of statutory interpretation and that statutes governing actions wholly within any territory of the United States do not apply to Puerto Rico."

Notwithstanding the Government took away jurisdiction from the Commonwealth of Puerto Rico in violation of 18 U.S.C. §3231,

"Nothing in this title shall be held to take away or impair the jurisdiction of the courts of the several States under the laws thereof.",

Which is a jurisdictional problem.

As the 6th Cir. affirms under United States v. Titterington, 374 F. 3d 453, 459 (6th Cir. 2004):

"A true jurisdictional problem--say, the Federal Government prosecutes a defendant for an non-federal crime--cannot be waived or altered by the parties' conduct during the proceeding."

Besides such Government's misconduct and bad faith has violated the due process of law affecting the integrity of the judicial process and the public interest, as the record shows, in violation of Petitioner's constitutional rights.

The Record contains clear and convincing evidence of a complete Lack of Federal subject-matter jurisdiction and Blatant Government Misconduct in violation of the Fifth Amendment. At the core of this extraordinary case, the Petitioner has presented clear and convincing evidence demonstrating that the Government acted entirely without Federal subject-matter jurisdiction. This jurisdictional defect, standing alone, renders all subsequent proceedings void ab initio. See Steel Co. v. Citizens for a Better Env't, 523 U.S. 83 (1998). See

Appendix E, page 18, line 7-18 and page 19-20.

2. No federal superseding indictment was ever returned by a jury, a fact supported by direct documentary evidence. This alone nullifies the prosecution and conviction.

However, the district court's order on 7/21/2023 denying [708] pro se motion which was not opposed by the Government. This means that the Petitioner's argument is correct due to the fact that in any of the recorded transcripts of the Grand Jury sessions there is no record charging the Petitioner. The Transcript of the Grand Jury's investigation session on March 11, 2004 shows:

"United States of America
Plaintiff,

vs.

Christian Villegas et al.
Defendant".

"The very purpose of the requirement that a man be indicted by a Grand Jury is to limit his jeopardy to offenses charged by a group of his fellow citizens acting independently of either prosecuting attorney or judge. The right to have the Grand Jury make the charge on its own judgement is a substantial right which cannot be taken away."

Stirone v. United States, 361 U.S. 212.

Nonetheless, the circumstances are further aggravated by overwhelming evidence of government misconduct, bad faith, and a complete disregard for the Fifth Amendment's guarantee that no person shall be held to answer for a serious offense unless on a presentment or indictment returned by a Grand Jury. (An indictment altered without grand-jury approval is void and also deprives the court of jurisdiction). See Appendix C3.

A. The Government Acted Without Jurisdiction And Manipulated Superseding Indictment Proceedings.

The record establishes that on January 29, 2004, a federal grand jury returned indictments against twenty-four individuals. Instead of properly filing those indictments, the Government diverted them into two separate case groupings:

1. United States v. Christian Villegas, et al., Case No. 04-0050(GAG)
2. United States v. Wilfredo Feliciano-Rodriguez, et al., Case no. 04-0052 (PAD)

Approximately six weeks later, on March 11, 2004, the Government returned to the Federal grand jury to obtain a superseding indictment exclusively in the Christian Villegas, et al. case (No. 04-0050(GAG)).

Critically, the government never shows evidence against the Petitioner in his case, No. 04-0052(PAD). The docket shows no grand-jury action, no return, and no valid charging document that satisfies the constitutional requirements of the Fifth Amendment.

Any amendment, modification, substitution, or alteration of an indictment must be made by the grand jury itself, not by the court and not at the Government's request. See Stirone v. United States, 361 U.S. 212, 215-16 (1960); Ex parte Bain, 121 U.S. at 7-14. See Appendices C1, C2, C3; and (Docket #60-61)

B. The Government Misused The Grand-Jury Minutes From A Different Case To Create The False Impression Of A Valid Indictment.

The Government's bad faith is further exposed by its use of grand-jury minutes from the Villegas case, No. 04-0050(GAG), to give the false appearance that the Petitioner was indicted on March 11, 2004. The record is unequivocal:

No grand jury ever returned an indictment against the Petitioner in Case No. 04-0050(PAD). This constituted fraud upon the court and a structural constitutional violation. As the Supreme Court has repeatedly held, that proceedings conducted without a valid indictment are void, not merely voidable. See United States v. Cotton, 535 U.S. 625, 631 (2002); United States v. Ball, 163 U.S. 662 (1896). See also Hezel-Atlas Glass Corp. v. Hartford-Empire Co., 322 U.S. 238 (1994).

C. Government Misconduct And Lack of Jurisdiction Renders The Entire Proceeding Void.

From the earliest stages of the investigation, the Petitioner was subjected to proceed-

ings initiated without lawful authority and pursued in bad faith. This misconduct strikes at the heart of the judicial process and gravely undermines the integrity of the courts and public's confidence in the administration of Justice.

The Constitutional violations present here are structural and incurable. A federal court cannot acquire jurisdiction where Congress and the Constitution have withheld it. See Arbaugh v. Y&H Corp., 546 U.S. 500, 514 (2006). See Appendix D, E, G1, and G2.

Also, because no valid indictment was ever returned on March 11, 2004 by a grand jury, the district court was wholly without jurisdiction and all orders, judgements, and proceedings are void ab initio. Bain, 121 U.S. at 13*; Stirone, 361 U.S. at 217. See Appendix C3.

3. The conviction was further infected by:

* Prosecutorial misconduct, See Appendix C2 Grand Jury Minute, dated January 29, 2004, Pg. 4, lines 9-18, also (DE 310, 311, 314, 320, and 321); (DE 223); (DE 242).

Furthermore, see how the Government usurps the Grand Jury's function. As a Sample of Flagrant Prosecutorial misconduct is the open induction to the Grand Jury which was biased, taking away the right that every accused has to be examined by an unbiased Grand Jury. On January 15, 2004 and January 29, 2004 the grand jury's proceedings evidenced how the [Government], throughout the questioning, he is the one who actually supplied the testimony to Agent Toro in order to obtain answers as he pleased. It is evident that the [Government], on some occasions took a role as grand jury and in others as witness as the record shows. (See Minute January 29, 2004 Pag 13 line 20-25; pag. 14 line 1-20; pag. 15-18 line 1-15).

Here is an example of prosecutorial misconduct before the grand jury, stealing its role. Where a grand jury member, questioning Agent Toro about his investigation, is interrupted by the prosecutor, depriving the grand jury opportunity to evaluate credibility of the witness. See Grand Jury minutes, January 29, 2004. Pg. 14, Line 9-15:

"9 Grand Jury Member: How many vials?
10 [Government]: Let me interrupt you just one
11 moment. It is typical that they would take a whole kilo of

12 cocaine and turn it into crack or would they normally use a
13 smaller portion?
14 The witness: No.
15 They always work with eighths."

The [Government], as the record shows, taking grand jury's role denaturalizing 'the very purpose of the requirement that a man be indicted by a grand jury is to limit his jeopardy to offenses charged by a group of his fellow citizens acting independently of either prosecuting attorney or judge...' ...Right to have which can not be taken away...' Stirone, 361 U.S. 212, 218-219.

The record was always concealed to the Petitioner at that time, he was dependent on his counsel's help and as the Petitioner has not been a good English speaker. But, as time passes, he is learning English and little by little he has shown before this Court that the record actually shows a clear evidence of his innocence.

* Perjured testimony, See Appendix C1-C2 Grand Jury Investigation, January 15, 2004, Testimony Agent Anthony Toro Zambrana, Pag. 8, line 7-11. Also, Jury Trial Transcript, Pag. 138, line 8-14; Grand Jury Investigation, January 29, 2004, Testimony Agent Anthony Toro Zambrana, Pag. 3, line 25, Pag. 4, line 1-20; Appendix E, Pag. 17, line 12-14 and Pag. 18, line 1.

* Brady/Giglio Violations, Undisclosed grand jury witnesses:

- The government failed to list critical witnesses who could have provided testimony favorable to the Petitioner at trial.

- These witnesses testified before the grand jury but were intentionally excluded from the trial process. See Grand Jury Investigation, January 15, 2004 Testimony Nestor Guzman Pizarro. Also see Grand Jury Investigation, January 15, 2004 Testimony Agent Toro Zambrana, Pag. 9, line 5-21. Also, (DE 168, 171, 183, 185, 196, 199, and 208).

* False and inflammatory claims that Petitioner conspired to murder and attempted to murder Special Agents, which misled the Grand Jury, see Appendix C2 Grand Jury Investigation, January 29, 2004, Pag. 3, line 25; Pag. 4, line 1-20; Pag. 12, line 17-25; Pag. 13, line 1-23.

4. The District Court refused to grant a hearing on Petitioner's Motion To Suppress Evidence Obtained In Violation Of Constitutional Rights. See (DE 223; 242).
5. Petitioner has no other adequate remedy, because only the Court of Appeals can decide the pending applications. Without a ruling, Petitioner remains indefinitely confined despite having demonstrated actual innocence with clear and convincing evidence.
6. Every day of delays prolongs the confinement of a person who has proven he did not violate any Federal law and whose conviction is void.

3. Failure To Address Direct Convincing Evidence Of Jurisdictional Defect.

Petitioner presented clear and convincing evidence:

(1) The investigation by (NIE) of Puerto Rico under Case No. 02-078 and all evidence of the offense and facts was purely local, stripping the Federal Court of subject-matter jurisdiction. See Appendices C1, C2, C3 and Appendix D.

(2) No valid Federal superseding indictment was returned by a Grand Jury against the Petitioner, violating the Fifth and Fourteenth Amendment. See Appendix C3 Minute on March 11, 2004.

Finally, the First Circuit summary dismissal, without addressing this evidence, evades its "non-delegatable duty" to verify jurisdiction defect. FW/PBS, Inc. v. Dallas, 493 U.S. 215, 231 (1990). This was an abuse of discretion warranting mandamus relief.

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Prayer for Relief

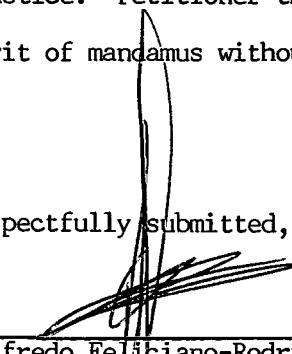
For the foregoing reasons, the Petitioner respectfully prays that this Honorable Court:

1. Issue a writ of mandamus directing the lower courts to vacate all proceedings, judgments, and orders entered in Case No. 04-0052 (PAD) for lack of subject-matter jurisdiction;
2. Declare that no valid indictment was ever returned by a federal grand jury against the Petitioner as required by the Fifth Amendment;
3. Order immediate dismissal of all charges and proceedings arising from the void indictment; and
4. Grant any further relief that this Court deems just, proper, and necessary to protect the integrity of the judicial process and constitutional rights of the Petitioner.¹

Conclusion

The Petitioner has demonstrated through clear and convincing evidence that (1) the government acted entirely without federal subject-matter jurisdiction; (2) no grand jury ever returned a valid superceding indictment against him; and (3) the government engaged in misconduct and bad faith that fundamentally corrupted the judicial process. These extraordinary circumstances warrant the exercise of this court's supervisory and mandamus powers to prevent a continuing miscarriage of justice. Petitioner therefore respectfully prays that this Court issue the requested writ of mandamus without further delay.

Respectfully submitted,


Wilfredo Feliciano-Rodriguez

Dated: December 8, 2025

¹See also Chehey v. United States, 542 U.S. 367 (2004); and Allied Chemical Corp. v. Daiflon, Inc., 449 U.S. 33 (1980).