IN THE UNITED STATES SUPREME COURT

IN RE MARY K. EDELMANN) CASE NO:_____

PETITION FOR EXTRAORDINARY WRIT OF HABEAS CORPUS AND BRIEF IN SUPPORT

Related Cases

United States v. Edelmann, 4:01-CR-00128-GH, (ED Ark.)

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ISSUES TO BE DECIDED

I. Whether Petitioner is incarcerated in violation of the Constitution by virtue of a conviction after the trial Court refused to allow Petitioner to represent herself at trial?

II. Whether the Constitution prohibits the imposition of a second punishment after the Government unsatisfied with punishment imposed (three (3) years earlier) pursuant to a plea agreement for the same alleged offense conduct, transactions and occurrences when the purported victim complained to the Government that he should have received more restitution than he received in connection with the first punishment?

III. Whether the trial Court is without Jurisdiction in *United States v. Edelmann*, 4:02-CR-00128-GH?

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STATEMENT OF JURISDICTION

The instant Petition for Extraordinary Writ of Habeas Corpus is brought pursuant to 28 USC §1651(a) and §2241.

Petitioner is in custody in violation of the Constitution for the purposes of obtaining habeas relief in this Court. Petitioner has attempted as best that she can as a pro se litigant to obtain relief from her unlawful detention in the trial Court as well as the Eighth Circuit Court of Appeals. The trial Court has refused to allow her to file Petitioner to file her pro se habeas petition in the district in which she is in custody and the Eighth Circuit Court of Appeals has refused to address the issues raised by Petitioner.

REASONS FOR NOT MAKING HABEAS APPLICATION TO THE DISTRICT COURT OF THE DISTRICT IN WHICH PETITIONER IS HELD

1.) That District Court of the District in which Petitioner is held has refused to allow Petitioner to file a habeas Petition in that Court pursuant to 28 USC §2255 in which Petitioner authorized the Court to construe the Petition as one pursuant to 28 USC §2241 if it so desired. The District Court refused to file the Petition.

2.) That Petitioner has previously presented for filing in the District Court, which the Court refused to file, a pro se Notice of Interlocutory Appeal from the District Court's order denying Petitioner's Motion for Dismissal of the Indictment; that the issues to be raised in the Interlocutory Appeal were immediately appealable to the Eighth Circuit Court of Appeals as the issues to be decided in the appeal that were raised in the Motion to Dismiss were in relation to violations of the Double Jeopardy Clause, lack of jurisdiction by the trial Court, denial of right to self representation at trial.

3.) That Petitioner has previously filed a Petition for Writ of Prohibition in the Eighth Circuit Court of Appeals whereby she sought an order directing the trial Court to

allow Petitioner to exercise her right to make, prepare and present her defense in a criminal trial. The Eighth Circuit denied the Petition without opinion or explanation.

4.) That Petitioner has attempted as best she could as a pro se litigant to have the lower Courts address the issues raised in the instant Petition, and the lower Courts.

5.) That Petitioner has filed (2) prior Motions to Recuse in the trial Court whereby she requested that the lower Court recuse as it appears that the trial Court was and is unable to address and rule on the issues before it in an unbiased and unprejudicial manner; that the trial Court has refused to recuse itself and has continued to cause the deprivation of Plaintiff's federally protected rights through its improper and prejudicial rulings and orders.

6.) That Petitioner is entitled to relief of the restraints upon her liberty and the lower Courts have refused to address the issues entitling her to relief. Therefore, any future attempts to obtain relief in the lower Courts would be futile.

Petitioner was charged in an eight (8) Count indictment on or about July 25, 2002 in the Eastern District of Arkansas (Little Rock Division) in *United States v. Edelmann*, (4:02-CR-00128-GH). Petitioner maintained her innocence as to all Counts of the Indictment. Within only weeks of trial the Government filed a sealed Motion for the disqualification of Petitioner's retained Counsel of choice. As a basis for this request, the Government alleged that it believed that Defendant "may" raise an ineffective counsel claim if convicted at trial and for this reason it believed that disqualification of Counsel was proper pursuant to FRCP Rule 44(c). After a brief hearing on the Government's Motion, the Court, *sua sponte* disqualified Petitioner's retained attorney of choice when Petitioner refused to waive her right to effective assistance of Counsel. No other