03-7155

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM

Supreme Court, U.S.
FILED
OCT 21 2003
OFFICE OF THE CLERK

EX PARTE

MIKE GUTIERREZ BRUNO,

PETITIONER,

VS.

DOUG DRETKE, DIRECTOR,

T.D.C.J. - I.D.,

RESPONDENT.

PETITION FOR WRIT OF HABEAS CORPUS

PETITION FOR WRIT OF HABEAS CORPUS

Mike G. Bruno

PRO SE

MIKE GUTIERREZ BRUNO
T.D.C.J. - I.D. # 457166
MICHAEL UNIT
P.O. Box 4500
TENNESSEE COLONY, TEXAS
75886

RECEIVED
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SUPREME COURT, U.S.

I.

QUESTIONS PRESENTED

(1). UPON MAKING A CLAIM OF ACTUAL INNOCENCE, IS A PETITIONER ENTITLED TO AN OPPORTUNITY AND FORUM IN ORDER TO SHOW THAT HE IS ACTUALLY INNOCENT OF THE CRIME FOR WHICH HE WAS CONVICTED OF ?

(2). IS A COURT REQUIRED TO INQUIRE INTO THE FACTUAL INNOCENCE OF A PETITIONER WHEN THE CLAIM ARISES ?

(3). DO COURTS ABUSE THEIR DISCRETION AND CREATE A FUNDAMENTAL MISCARRIAGE OF JUSTICE WHEN THEY DENY HABEAS RELIEF WITHOUT INQUIRING INTO A FACTUAL INNOCENCE RAISED BY PETITIONER ?

(4). DOES PROOF OF FACTUAL INNOCENCE ALLOW A PETITIONER TO OVERCOME SUCCESSIVE, ABUSIVE, AND PROCEDURALLY DEFAULTED CLAIMS ?

(5). DOES PROOF OF FACTUAL INNOCENCE ALLOW A PETITIONER TO OVERCOME THE RESTRICTIONS AND REQUIREMENTS OF THE ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT (AEDPA) OF 1996 ?

(6). DO PRO SE LAY PETITIONER REQUIRED TO DRAFT WRITS, DOCUMENTS, AND ARGUMENTS AS THAT EXPECTED BY PROFESSIONAL LAWYERS ?

(7). IS A PETITIONER ENTITLED TO HAVE THE SUPREME COURT OF THE UNITED STATES REVIEW HIS CONSTITUTIONAL CLAIM UNDER THE "ACTUAL INNOCENCE EXCEPTION" AFTER THE LOWER COURTS HAVE DENIED RELIEF WITHOUT INQUIRING INTO PETITIONER'S ACTUAL INNOCENCE CLAIM?

(8). DOES A TRIAL COURT HAVE SUBJECT-MATTER JURISDICTION TO CONVICT ON AN OFFENSE WHICH IS GREATER THAN THE OFFENSE CHARGED IN INDICTMENT?

(9). DOES A TRIAL COURT'S LACK OF SUBJECT-MATTER JURISDICTION RENDER THE JUDGMENT AND SENTENCE VOID, SUBJECT TO COLLATERAL ATTACK AT ANYTIME?

(10). IS A DEFENDANT PROVIDED WITH EFFECTIVE ASSISTANCE OF TRIAL COUNSEL WHEN TRIAL COUNSEL, (A). FAILS TO ACQUAINT HIMSELF WITH THE LAW IN RELATION TO THE OFFENSE CHARGED; (B). FAILS TO ATTACK A DEFECTIVE INDICTMENT; (C) PROVIDES DEFENDANT WITH ERRONEOUS INFORMATION ON CLEAR POINTS OF LAW; (d). ADVISES DEFENDANT TO PLEAD GUILTY TO A BEATABLE CASE NOT INVESTIGATED; (E) MANIPULATES DEFENDANT INTO SIGNING A "JUDICIAL CONFESSION" WHICH IS THEN USED AGAINST DEFENDANT; (F). ALLOWS A CONVICTION FOR A GREATER OFFENSE THAN THAT CHARGED IN INDICTMENT?

(11). IS A DEFENDANT SUFFICIENTLY INFORMED OF

THE NATURE AND ACCUSATION OF CHARGED OFFENSE WHEN HE IS ADVISED BY HIS COUNSEL AND, ADMONISHED BY THE TRIAL COURT WITH A FELONY-DEGREE, AND RANGE OF PUNISHMENT WHICH IS GREATER THAN THAT APPLICABLE TO THE OFFENSE ACTUALLY CHARGED?

(12). IS A DEFENDANT'S PLEA OF GUILTY VOLUNTARY AND INTELLIGENTLY MADE WHEN HE IS UNAWARE OF THE TRUE NATURE AND CAUSE OF THE ACCUSATION?

(13). IS A "WRITTEN JUDICIAL CONFESSION" SIGNED KNOWINGLY AND VOLUNTARILY WHEN DEFENDANT'S TRIAL COUNSEL REQUESTS DEFENDANT TO SIGN A FEW "JURY WAIVERS" WITHOUT INFORMING DEFENDANT THAT ONE OF THE DOCUMENTS SIGNED WAS A "COURT REPORTER" WAIVER", AND A "WRITTEN JUDICIAL CONFESSION" WHICH WOULD BE USED AGAINST DEFENDANT TO OBTAIN A CONVICTION?

(14). IS A PERSON IN "POSSESSION" OF A POSTCARD MERELY BECAUSE THAT PERSON'S NAME IS ON THE POSTCARD, EVEN THOUGH THE POSTCARD WAS FOUND IN A LOCATION THAT THE PERSON HAD NO PHYSICAL ACCESS TO?

(15). IS IT UNCONSTITUTIONAL FOR GOVERNMENT ACTORS TO USE MANIPULATIVE TACTICS TO OBTAIN A

CONVICTION OF A PERSON WHO IS ACTUALLY INNOCENT?

(16). IS IT AN "EXCEPTIONAL CIRCUMSTANCE" WHEN THE "ACTUAL INNOCENCE EXCEPTION" HAS BEEN ESTABLISHED BY THIS COURT YET, DISREGARDED BY LOWER COURTS?

(17). IS THE "ACTUAL INNOCENCE" OF A PETITIONER UNDER THE FUNDAMENTAL MISCARRIAGE OF JUSTICE EXCEPTION AN "EXCEPTIONAL CIRCUMSTANCE?

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

CHARLES R. FULBRUGE III
CLERK

TEL. 504-589-6514
600 CAMP STREET
NEW ORLEANS, LA 70130

May 1, 2001

Mr. Mike G. Bruno
TDCJ-ID #457166
Michael Unit
P.O. Box 4500
Tennessee Colony TX 75886

Re: No. 01-20233 In re: Bruno

Dear Mr. Bruno:

This is a response to your letter of April 20, 2001. In that letter, you complain that the court erroneously considered your motion to recall the mandate in No. 99-20256 as a request for leave to file a successive habeas corpus petition. As stated in the court's letter of October 25, 2000, the Supreme Court has decided that motions to recall the mandate in cases such as yours are to be treated as requests for leave to file a successive habeas petition. The letter went on to state that if you wanted your motion treated that way, you had to inform us and you had to supply copies of documents from your previous habeas action. We did not receive a response from you, so no action was taken on your motion to recall the mandate.

On March 12, 2001, however, we received a motion for discovery from you. You indicated that this was being filed in No. 99-20256. That appeal is closed and no motions like the one you submitted can be filed in it. The motion for discovery asked for information that you said would help show that you are innocent of the crime you were convicted of. Therefore, that motion was treated as a request for leave to file a successive habeas petition. The court denied permission on April 3, 2001.

You further ask for advice how you should proceed in the future. The court cannot give legal advice to litigants.

Sincerely,

CHARLES R. FULBRUGE III, Clerk

By: William C. Zapalac
William C. Zapalac
Counsel to the Clerk's Office
(504)589-6514 ext. 212

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

CHARLES R. FULBRUGE III
CLERK

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May 24, 2001

Mr Mike Gutierrez Bruno
Texas Department of Criminal Justice
Institutional Division Michael Unit
#457166
Farm Market Road 2054
PO Box 4500
Tennessee Colony, TX 75886

No. 99-20256 Bruno v. Johnson
USDC No. H-97-CV-3874

We have received your second "motion to recall mandate". In light of this Court having already issued its final ruling in this appeal by denying a request for reconsideration, will not rule any further. As such, no action will be taken on your motion.

Sincerely,

CHARLES R. FULBRUGE III, Clerk

By: _____
Donna Mendez, Deputy Clerk
504-589-6514 ITCM # 173

cc: Ms Carolyn Merchan

BR-9