

UNITED STATES DISTRICT COURT
IN THE
SOUTHERN DISTRICT OF FLORIDA

ROGERIO CHAVES SCOTTON,
Scotton,

CASE NO: 17-cv-62428-KMW

Vs.

UNITED STATES OF AMERICA,
Respondent.

PETITIONER'S MOTION TO OBJECT THE MAGISTRATE
RECOMMENDATION REPORT AND TO SEEK THE STAY OF THIS
CASE UNTIL THE COURT RELEASE THE CASE RECORDS.

Comes now, Scotton Rogério Chaves Scotton, by and through pro se, respectfully moves this Court with this motion to object the magistrate recommendation report and to seek the stay of this case until the court release the case records.

In support of this motion, Scotton states as follows:

As an initial matter, Scotton respectfully request, as a prose litigant, that this Court construe his motion liberally pursuant to HAINES vs. KERNER, 404 U.S. 519, 92 S. Ct. 594, 30 L. Ed. 2d 652 (1972), accepts all factual allegations contained herein and as detailed under this application as true, and evaluates all reasonable inferences derived from those facts in the light most favorable to Scotton. TANNENBAUM vs. UNITED STATES, 148 F.3d 1262 (11th Cir. 1998). Indeed, Scotton reminds the Court that this is a prose motion that should be deserving of the less stringent standard of consideration mandated under UNITED STATES vs. JONES, 125 F.3d 1418, 1428 (11th Cir. 1997), and the Court “must look beyond the labels of petition filed by prose detainees to interpret them under whatever statute would provide relief”. MEANS vs. ALABAMA, 209 F.3d 1241, 1242 (11th Cir. 2000) (per curiam); ANDREW vs. UNITED STATES, 373 U.S. 334, 337-38, 83 S. Ct. 1236, 10 L. Ed. 2d 383(1963). “[A]djudication upon the underlying merits of claims is not hampered by reliance upon the titles Scottons put upon their documents”. (quotation omitted). This practice acknowledges the importance of allowing meritorious claims to be heard and decided regardless of mere pleading defects introduced by legally unsophisticated litigants, as this one filed by Scotton.

I. RELEVANT BACKGROUND

Movant, Rogerio Chaves Scotton, has filed a *pro se* Motion to Vacate pursuant to 28 U.S.C. § 2255 on December 11, 2017, [CV ECF No. 1], challenging his conviction and sentence entered after he was found unlawful guilty by a jury of twenty-seven counts of mail fraud and two counts of false statements in Case No. 12-60049-CR-WILLIAMS. For the reasons explained on Scotton’s memorandum of law and hereby, he objects the magistrate report and seeks the stay of this case

until the court release all case records and the evidences that all twenty-seven counts of convictions were shipped and delivered and cause losses as mentioned on the second superseding indictment. Thus, it is clear that this case is filthy with constitutional violations and fraud which demands Scotton's conviction vacated and revise this case as a matter of universal law, type of Universal Law which Logic prohibits logical contradictions known as sophistry that occurred on numerous occasions in this case. Scotton is entitled to relief in this § 2255 proceeding.

On December 14, 2020, Magistrate Judge Lisette Reid submitted her recommendation report and asked this Court to deny Scotton's requests for justice by misleading all his substantial constitutional claims filed. In fact, the Magistrate herself stated under the motion that both attorneys Doakes and Adelstein advise this Court that they have gone to jail to review discovery with Scotton. NOT truth. Thus, NO EVIDENCE IS PROVIDED TO SUPPORT THE MAGISTRATE CLAIM OR even TO SUPPORT THE ATTORNEYS CLAIMS. However, trial transcripts review that during the course of Scotton' trial, all prosecutor CDs discovery were proved to be, in fact, blank (empty). (See DE-511 pg 42, DE-511 pg 126, DE-511 pg 128, and DE-470 pg 90-91); (See also, DE-51 130-132, DE-470 pg 93). WHY THIS COURT INSIST ON SATURATING THE DOCKET OF THIS CASE WITH FALSE WORDS WHICH ARE NOT SUPPORT BY ANY EVIDENCE, or why this court continued to refuse to release this case records including the alleged business records that would supporting the allegation of the 27 counts. Where is the loss amount of the 27 counts of conviction? Where are the business records alleged been given by the government under the CDS discover alleged been the losses imposed under the restitution? Which used unlawfully by ICE to remove Scotton from the United States. Why the CJA vouchers are not released? This court has clear knowledge that the court appointed attorneys have given false statements under those vouchers.

Scotton contends that, the magistrate judge statement as well as Attorney's Doakes and Adelstein statement suggests of reviewing CDs discovery is absurd and is, without any doubt complete false.

Furthermore, Scotton have requested this Court on numerous occasions for the CJA vouchers which containing the attorneys claims of alleged legal services provided to Scotton, requesting compensation. All requests made by Scotton was completely ignored by this Court. Thus, Magistrate Judge response to Scotton motion requesting CJA vouchers, was that Scotton should not file a motion requesting public record and thus, informed that such public records must be requested from the clerks' office.

During the period of three (3) years, Scotton have request this court to release the CJA vouchers as well as to unseal the entire case record, civil and criminal. Other family members and friends when to the clerk's office to docket a petition and request those public records. All requests denied.

On December 12, 2020, Chief Deputy Clerk, Kevin Kappes emails Scotton and states as follows:

IN CONSIDERATION OF THIS COURT'S DENYING YOUR REQUESTS FOR COPIES OF THE CJA VOUCHERS, THE CLERK'S OFFICE IS WITHOUT AUTHORITY TO RELEASE THESE DOCUMENTS WITHOUT FURTHER COURT ORDER. (SEE EXHIBIT 1).

This despite that magistrate Judge Reid herself informed Scotton to request said public records to the clerk office. (see **Scotton vs. US 12-Cr- 60049 and 12-CV-62428** Magistrate order). Thus, Scotton was denied his first amend rights to obtain public records which would contradicts the Magistrate Judge statements made under her report recommendation and would prove fraud conducted by the court appointed attorneys against the tax payers.

The entire Magistrate report is a clear understanding of the fraud in this single defendant case and how much injustice was done to coverup agent Vanbrunt fraud as well as his obsession for Scotton due to the involvement of his own wife which now have come to the light.

MAGISTRATE PROCEDURAL BACKGROUND:

a) **...” The Court found Movant to be a serious risk of flight and ordered him detained. [CR ECF No. 16]. A SERIOUS RISK OF FLIGHT!!!** Scotton has lived in the United States for more than 30 years. During this 30 year, Scotton when to Brazil on tree occasions. There is no record that Scotton owned any airplanes, have properties in Brazil. Rather, during the bond hearing, he asked for a house confinement, his mother offered her passport and her house as guarantee that Scotton would face the trial without cause any problem. Was proved that he possessed legal status on United States. The assumption of flight risk was absurd. Scotton his rights were violated by presumption and fraud acts upon this court. In fact, false and fabricated letters was introduced on the first hearing for bond. Of course, nothing was done. Normal day and the federal judicial system at work.

b) **...Prior to trial, Movant dismissed five different attorneys. After these multiple representations, the Court determined that Movant would represent himself at trial. An attorney was appointed to act as standby counsel during trial”.**

There are numerous clear evidences that Scotton has not dismissed five different attorneys as mentioned by this court which used as excuse on many occasions to violate his rights to legal representation. The memorandum of law and others motion that included attached evidences, have established such. And since the court refuse to release the CJA vouchers, this fraud is well established.

c) **...replaced because he disagreed with Doake's advice and strategy.** STOP THE LIES, there was no strategy. The only advice was to plea guilty. The attorney HAS NOT INSPECTED THE SPREADSHEETS OR THE ALLEGED DISCOVERED CIDS. Otherwise, they would advice this court that those CDS were empty and there is no business record that could referrer to the fabricated spreadsheets. The fact that this court insist on falsely stating that Scotton have not cooperate with the attorneys is complete dilutional and could not be proved by video, photos, voice recording or any other substantial evidence. This is just another cover up of the fraud.

c) **...Armstrong alleged that he met with Movant on three occasions and in each of the meetings Movant"became hostile, verbally abusive, and began shouting" at counsel.** As the magistrate herself stating, **Armstrong "ALLEGED"**. Where is the evidence of such?? Where is the video, the audio recording from Broward county jail and FDC Miami??? Could this court prove that?? Or that is the normal proceeding, believe anything those appointed clowns saying? This man never done anything on for case. At one occasion he came, was on Sunday, at the FDC Miami. This attorney was flat-out drunk after a fishing trip he when. His visitation was with the only mission, the mission to collect more tax-payers funds to pay his fishing expenses.

d) **...filed a motion to withdraw stating that in a recent meeting, Movant had become agitated and threatening.** Once again, where is the video from Broward county jail and FDC Miami?? besides the attorney allegation or this court allegation, there is absolutely nothing done in this case by this court appointed clown or the others, besides falsely bill the tax-payers. Moreover, this court own error to insist on keep two conflicted and removed previous attorneys from the case. Using logic, if those individuals have done absolutely nothing to prepare or help the defendant for trial, how could this court would think they were going to do something to help as standby clowns?

e) ...On August 21, 2013, the Court held a calendar call. [Id.]. Movant complained that he had not been given any discovery. [Id.]. Doakes advised the court that she had provided Movant with all discovery and that she and her investigator had attempted to review the discovery with Movant. [Id.]. The investigator testified under [*7] oath that he had gone to the jail to review discovery, but he refused to look at some of the materials. [Id.]. He testified that the discovery had been provided to Movant prior to November 2012. [Id.]. Adelstein also advised the Court that he went to review the material with Movant, but Movant informed him that he had already reviewed the material and did not wish to review them again. [Id.]. Adelstein left the material with Movant. [Id.] These people have no shame, their license is exclusive to lying. There was no discovery material regarding the falsa allegation of mail fraud. Three (3) boxes fully of trash was left in the court cell containing all the bank accounts already opened by Scotton's stepfather, brother, and brother-in-law. Copies and renewal of Scotton's stepfather, brother, sister-in-law and mother's driver's license. Nothing to do with the allegation of mail fraud. There was absolutely nothing relevant to the accusations. However, on trial it was proved that the discovery CDs were empty. And on trial, Judge Rosenbaum ordered the government to provide to Scotton new discovery CDs. The new CDs only had a few spreadsheets and nothing else. No business record has been given whatsoever. (DE-511 pg 42, DE-511 pg 126, DE-511 pg 128, and DE-470 pg 90-91); (See also, DE-51 130-132, DE-470 pg 93). When the lies stop! Where is the business record??

Section 2255:

Scotton contends that his section 2255 is not a substitute for direct appeal as suggested by the magistrate. In fact, Scotton seeks relief because this court imposed a sentence in violation of the constitution laws under the fourth, six, eight and fourteen amendment. There are numerous acts of

transgressions of constitutional rights in this case that the appeal attorney has not raised during the direct appeal. This despite on numerous occasions asked by Scotton. McKay v. United States, 657F.3d1190,1194n.8(11thCir.2011). Such intentional acts and behavior conduct by the appeal attorney has result on a complete miscarriage of justice.

Lynn v. United States, 365 F.3d 1225, 1232 (11th Cir. 2004) (citations omitted); see also United States v. Frady, 456 U.S. 152, 165, 102 S. Ct. 1584, 71 L. Ed. 2d 816 (1982).

This court must find that the claims under Scotton' section 2255 is valid, not because he says so, but because the record of this case, the evidence and universal law demands that much. This Court cannot ignore any longer the evidence hereby attached. The spreadsheet was challenged by Scotton during this entire case. Such fabricate and inaccurately evidence unlawfully introduced have increase 18 levels of Scotton guidelines, resulting on absurd increase his staying in prison as well as his deportation. (see exhibit 1). Furthermore, the same spreadsheets were modified by the FBI agent himself after the witness's testimony. (See exhibit 2). That the government failed to prove that FedEx, UPS and DHL suffer losses under the 27 counts of mail fraud. That the second superseding was unlawfully amended during trial were the prosecutor mentioned under the indictment that the 27 packages were delivered in Brazil and during the trial display for the jury 27 packages alleged to be the same packages mentioned been delivered. This fraud has undermined and prevented Scotton from properly defense since he has prepared to defend himself from 27 packages alleged been shipped and delivered in Brazil, but at trial the prosecutor changes the charges and the allegation set fourth under the indictment by illegally introduced 27 packages in court. No mentioned of any loss amount for the 27 packages and no mentioned of these 27 packages under the inaccurate spreadsheets. Where is the fraud them???

Beeman v. United States, 871F.3d 1215, 1221-1222 (11th Cir. 2017).

Furthermore, the court could see that Scotton claims ineffective assistance is based on truth facts. The attorneys have not even look under the CDs discovery during they representation time. Otherwise, they would have notice that those government CDs were in fact, empty. Lee v. United States, 582 U.S., 137 S.Ct. 1958, 1964, 198 L. Ed. 2d 476 (2017).

Under this section 2255 Scotton contends that he does satisfy and have demonstrate that all counsel's performance was deficient and fake. And those counsel's deficiencies performance serious prejudiced Scotton during pretrial, trial and the entire case. Strickland v. Washington , 466 U.S. 668, 687, 694, 104 S. Ct. 2052, 80 L.Ed. 2d 674 (1984). The STRICKLAND prongs have been meeting by facts and evidences here. See id.at 697; See also Brown v. United States, 720 F.3d 1316 (11th Cir. 2013).

Scotton further contends that under his section 2255 petition he has demonstrated that had him been represented by a competent counsel this court would know that there was no business record under the CDS discovery and further that the same CDs were in fact blank. Gordon v. United States , 518 F.3d 1291, 1301 (11th Cir. 2008) (citations omitted). Any competent counsel would had inspected the accuracy of the spreadsheets and would have advice this court that such was inaccurate and have no record to compare. Scotton was serious prejudice by the acts of his court appointed counsels that have constantly refuse to inspect important material, interview witnesses and suppressed fabricate evidence introduced at trial. Have the court as well as the jury know about the inaccuracy of this spreadsheets, that such was created by the agent himself, that there were no business records regarding the spreadsheets inside the CDs discovery as suggested by the prosecutor, had the jury know what is necessary to form the base of mail fraud in this case does not existed, the outcome of this case would have been complete and definitely different. Strickland

, 466 U.S. at 694. In fact, had the attorney inspected the spreadsheets they would have established that such loss amount declared at sentence was fraud since no business record existed and that the information under the spreadsheets were repeated. Without the fabricate losses, Scotton would have been sentence to a much less time. (see exhibit 3). Glover v. United States, 531 U.S. 198, 203, 121 S. Ct. 696, 148 L. Ed. 2d 604 (2001). Those exhibits submitted under this section 2255 and hereby is a clear prove factual support for Scotton contentions of counsel's performance in this case. Smith v. White, 815 F.2d 1401,1406 (11th Cir.1987). The Strickland test does not require a showing of what the best or good lawyers would have done, but rather whether some reasonable lawyer could have acted in the circumstances as defense counsel should have acted. See Dingle v. Sec'y for Dep't of Corr., 480 F.3d 1092, 1099 (11th Cir. 2007). In this case the attorney's decision of not investigate or help Scotton was "so patently unreasonable that no competent attorney would have chosen it. "Id. (citations omitted).

The magistrate also argues here the following:

At the time the issue was raised it was clear that the blank CD had not been provided by the Government. This is total false. There is no evidence of such, When Scotton objected the introduction of the spreadsheets at trial, the prosecution suggested that the court appointed attorneys may have made copies of the discovery CDS and given to Scotton. The Court excuse the jury on a break and order the prosecutor to provide fresh copies of the CDs to Scotton. THE EVIDENCE proved CLEAR THAT THE EMPTY CDS WERE GIVEN TO SCOTTON BY THE PPROSECUTOR. Both CDs the fresh copies and the blank once have the FBI agent Roy vanbrunt had-writing. The magistrate statement and the record are wrong and false because the blank CDs were in fact provided by the prosecutor.

It was also established that the Government had provided Movant with a Bates Stamped CD in a timely fashion.

The CDs were provided are blank, don't you get???

The Court also found that Movant had been provided with all CDs that were used by the Government at trial. Scotton have proved that he was provide with blank CDs. At trial he was provide with others CDs, after the Court order, however, these CDs provide in Court only containing the inaccurate spreadsheets. Scotton would proof that at any evidentiary hearing.

In light of this record, counsel was not ineffective for failing to raise this meritless claim on appeal. Of course, the magistrate would say that. This is the typically judicial cover-up. However, the evidence is on the court's face.

There also many other statements made by the court that could not be proved by evidence.

This court may not yet know that this case started from the moment Scotton decided to divorce Agent Vanbrunt's wife's friend, Andrea is friend to Rosana Duarte and Cirlene Maria dos Santos, Scotton's ex-wife. This was recently investigated by Brazilian authorities. In fact, Cirlene changed its name on all social media to Cyrlene Santtos. (Exhibit 4) After Scotton's divorce and after Andrea Vanbrunt's requests her husband to pursue Scotton, Agent Roy became obsessed with Scotton and stated on numerous occasions to Scotton's friends that she would put him in jail one way or the another and then would deport him. So much so that Junior Silva stated that the agent said the same.

Following the logic, the government's claim does not include the statute of the law. There is no postal service in this case due to the simple factor that there is no loss of money under the 27 counts, FedEx, UPS and DHL are not the recipient, as nothing was sent to them through the mail. Nonetheless, there is no point in speaking or demonstrating anything else to the court, because this court already know the truth. Another routine day at Court.

FINAL ARGUMENT:

It doesn't matter to Scotton what this court will say at this stage of the case or how Scotton section 2255 allegations will be responded, after all he already know the legal system he is against. On the end one could only wait for more lies, and more lies to cover-up the dirty system. Thus, this Court know the truth, this Court know the violations and misconduct and that was never a mail fraud offense conducted by Scotton in this case.

There's a lot more at stake in this case to reverse and do what the law requires to do. Who would lose the job or reputation so justice would be done in this case, the agent? The prosecution? Who?

Logically, I should not expect anything from this court since this Court continue to blind eye on numerous constitutional violations in one single defendant case. My unprofessional way of handle this case should not stop justice and what the law requires to be done But since the only thing everyone care today is to pursuing it personal agenda, I would only expect justice from above.

Conclusion:

This case presents numerous violations and numerous acts of irreparable injustice. This court should not be looking at anything more or less than the law at this stage, regardless of any wrong attitudes of the defender or regarding his unprofessional way to litigate his own case.

Looking at the evidence presented here, the logic could only be one. Scotton was unfairly tried, illegally accused and convicted to only fulfill agent Vanbrunt's wife and Scotton' ex-wife Cirlene Santos desire to destroy his life as revenge for the divorce. Today if the jurors are exposed to all these facts and evidences, none of them would have convict Scotton beyond a reasonable doubt.

This conviction should be vacated reverse and dismissed for all the reasons set forth by Scotton under this all records.

Wherefore, in the interest of justice and fairness, Scotton prays for the reasons stated above, that this Court grant him his 2255.

Scotton submits this motion in good faith and the interest of justice.

Respectfully Submitted,

ROGERIO CHAVES SCOTTON
5201 BLUE LAGOON DRIVE, STE 800
MIAMI, FL 33126

PROOF OF SERVICE

I Rogerio Chaves Scotton, do certify that on this February 12, 2021, I have served the attached change response to the magistrate report (which is under Scotton's constitutional rights) on the Southern District of Florida in the above proceeding. I have served this motion via, United States Postal Service (USPS) certified mail.

Respectfully Submitted,

ROGERIO CHAVES SCOTTON
5201 BLUE LAGOON DRIVE, STE 800
MIAMI, FL 33126

EXHIBIT 1

Microsoft Excel

1363 duplicate values found and removed; 1269 unique values remain.

Was this information helpful?

OK

InvoiceDate	BillAcctNbr	AcctName	InvoiceNum	AWBNumber	TtlShips	Pieces
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1/26/2010	4/5/2010	775429527 APPLE COMPUTER *ACCOUNT CLOSED*	NUQ0000022901	7375329054		0
1/25/2009	1/27/2010	812006052 SEARS, ROEBUCK AND CO. *ACCOUNT CLOSED*	ORD0000026451	7814296560		1
3/24/2010	4/1/2010	775429527 APPLE COMPUTER *ACCOUNT CLOSED*	NUQ0000022765	7375352666		0
2/30/2009	1/4/2010	752691174 APPLE INC (DUTY ACC ONLY) *ACCOUNT CLOSED*	NUQ0000037362	7981116452		1
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EXHIBIT 2

Properties ▾

Size	676KB
Title	Add a title
Tags	Add a tag
Categories	Add a category

Related Dates

Last Modified	2/3/2014 7:50 PM
Created	2/3/2014 7:23 PM
Last Printed	Today, 2:47 PM

Related People

Author  Van-Brunt, Roy
Add an author

Last Modified By  RVan-Brunt

Related Documents

 Open File Location

Show All Properties

EXHIBIT 3

Properties ▾

Size	349KB
Title	Add a title
Tags	Add a tag
Categories	Add a category

Related Dates

Last Modified	2/5/2014 9:50 PM
Created	2/5/2014 9:35 PM
Last Printed	

Related People

Author	 NFrank
	Add an author
Last Modified By	 NFrank

Related Documents

 [Open File Location](#)

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EXHIBIT 4

