

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
DUBLIN DIVISION

UNITED STATES

RESPONDENT

V

GLADYS HARUN

PETITIONER

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CASE:CR 323-003

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA

JAN 24 2025

FILED

MOTION FOR RECONSIDERATION FOR EXTENSION OF TIME TO FILE
28 USC 2255 MOTION

Comes now petitioner Gladys Harun in pro se moving this court again to extend time for her to file relief under 28 U.S.C. 2255. Petitioner hereby provide substantive grounds for 2255 relief factors for the court to consider in extending the limitation period. Petitioner asserts that she never provided these details in her recently denied motion on the same issue.

Petitioner agrees with the court that she waived her right to collaterally attack her conviction and sentence in her plea agreement. However the plea agreement also gave her an exception the vehicle she now seeks to use in collaterally attacking her conviction and sentence. Petitioner therefore intends to file a 28 U.S.C. 2255 motion based on a **claim** of ineffective assistance of counsel as allowed in the plea agreement.

Petitioner hereby invokes actual innocence and fundamental miscarriage of justice to excuse procedural defaults.

"actual innocence , if proved, serves as a gateway through which a petitioner may pass whether the impediment is a procedural bar, as it was in *Schlup v. Delo*, 513 U.S. 298, 115 S.Ct. 851, 130 L. Ed.2d 808, and *House v. Bell*, 547 U.S. 518, 126 S.Ct. 2064, 165 L.Ed. 2d 1..." *McQuiggin v. Perkins*, 569 U.S. 383, 133 S.Ct. 1924, 1928 (2013). In other words if petitioner could show that she is actually innocent of the charges, she would be entitled to equitable tolling and her 2255 motion would not be time barred.

Petitioner hereby presents substantive grounds for 2255 relief. She discusses factors delineated in 2255(f) that are applicable in her situation to extend the limitation period for filing 2255 motion.

A.) UNCONSTITUTIONAL OR UNLAWFUL IMPEDIMENT TO FILING
UNDER 2255(f) (2)

Petitioner demonstrates violation of the right of access to the courts under *Lewis v. Casey*, 518 U.S. 343, 116 S. Ct. 2174, 135 L. ed. 2d 606 (1996). Petitioner asserts that she diligently pursued her federal claims but was prevented from doing so as a result of deficiencies in the prison law library. Petitioner has very limited access to law research time because the camp has only 6 law library computers serving roughly 650 or more prisoners. Due to excessive lock downs and recalls, petitioner has to remain in her cube and cannot go to the law library. Once in the law library, the lines are long and waiting times are lengthy. This

has made it difficult for petitioner to do meaningful research in law to draft a 2255 motion. This impediment from the prison law library should trigger a new limitation period under 2255(f)(2).

DENIAL OF LEGAL DOCUMENTS

On 09/26/2024, petitioner received a denial letter from the court. Petitioner had requested various documents she requires including a motion of discovery, warrant for arrest, warrants for seizure of bank accounts, warrants for seizure of her IPP ~~and~~ internet online items and grand jury indictment transcript (CR 322- 009 and CR 323-003-001).

The clerk of court indicated that there was no motion of ~~discovery~~ discovery on file and she denied petitioner the remaining documents saying they were not for public disclosure (see attached letter letter sent to the clerk of court and her reply letter). (Exhibit 1 and 2) This contradicted what petitioners attorneys had told her . They had indicated there is a motion of discovery onfile with the court that details specifically how the case originated..

This denial of exculpatory documents ~~to help~~ to help petitioner draft a 2255 violated petitioner's right of access to courts and creates an impediment under 2255(f)(2) to trigger a new limitation period. Once the court denied release of these documents, petitioner wrote all her four previous attorneys to release case files to her. Petitioner sent them letters using certified mail. Her previous attorneys received the letters; 3 of them ignored her. None of them sent petitioner any document. Petitioner through her family has called, and emailed these attorneys but they have not surrendered the requested documents.

On October 22, 2024, petitioner received a letter from her defense attorney Johnny vines. Petitioner had written him a letter requesting hard copies of case files so she can use them to prepare a 2255 motion. Mr vines wrote her back asking for a 4-terabyte hardrive (see attached letter exhibit 4).

The federal camp informed petitioner that hard drives are not permitted. Petitioner wrote Mr. vines again requesting for hard OR PAPER COPIES OF HFR legal documents- several documets but he has not responded to this request as of today..

Withholding access to legal documents and necessary information is an impediment that has prevented petitioner from filing a timely 2255 motion.

B .) DUE DILIGENCE REQUIREMENT

Petitioner hereby demonstrates that she has been diligently seeking her rights but circumstances beyond her control have made it impossible for her to file a timely 2255 motion..

Section 2255 (f)(4) does not require the maximum feasibility diligence but only "due" or reasonable diligence (Aron v. United states, 291 F.3d 708, 712 (11th Cir 2002) (citing wims, 225 F.3d at 190 n.4)

Petitioner asserts that she has made reasonable efforts to obtain her case documents but failed due to circumstances beyond her control as explained.

Petitioner therefore seeks equitable tolling and has demonstrated two elements (1) That she has been pursuing her rights diligently (2) That some extra ordinary circumstance stood in her way (Pace 544 U.S at 418, 125 S.Ct at 1814 (citing Irwing v. Department of veterans affairs , 498 U.S 89, 86 96 111s ct 453, 112 L .Ed 2d 435 (1990))

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Petitioner has included a motion requesting the court to help in compelling her attorneys to surrender her case files.

Petitioner was a franchisee of Jackson Hewitt tax service prior to incarceration. This company has ignored her repeated requests for her business records over and over.. Petitioner is in dire needs of these documents to support her 2255 motion. Petitioner has therefore included a motion requesting court to compel Jackson Hewitt to release her documents.

C.) DISCOVERY OF NEW FACTS UNDER 2255 (f)(4)

In cases of newly discovered evidence, 2255 (f)(4) ensures that section 2255 relief may be sought even though the movant's conviction has been final for more than a year. see

Wims v. United States 225 F.3d 186 190 2000 us AP lexis
23272 (2nd Cir 2000)

Petitioner discovered the actual innocence exception and fundamental miscarriage of justice in December of 2024. Petitioner has no training in law and could not have discovered this sooner. Petitioner has limited access to prison law library which makes it difficult to research issues surrounding law.

under 2255(f)(4) "the due diligence inquiry is an individualized one that must take into account the conditions of confinement and the reality of the prison system" Aron 291 F.3d at 712 (inter marks omitted) "unlike the general population which has a greater access to court opinions, prisoners must rely exclusively upon the prison law library to discover information contained in new case". see Easterwood v. Champion, 213 F.3d 1321, 1323 (10th Cir 2000). Thus where the factual predicate of the claim can be found in a court decision, the claim is not discoverable by an incarcerated prisoner exercising 'due diligence' until the date the opinion became accessible in the prison law library, rather than the date the opinion was issued. id.

D.) A SHOWING OF ACTUAL /~~ACTUAL~~ INNOCENCE PROVIDE A BASIS FOR EQUITABLE TOLLING.

Petitioner invokes actual innocence and fundamental miscarriage of justice to excuse procedural defaults. The eleventh circuit has held that a showing of actual innocence "serves ... to lift the procedural bar caused by the movant's failure to timely file a 2255 motion" United states v. Montano, 398 F.3d 1276, 1284 (11th Cir 2005) some courts have held that actual innocence can provide basis for equitable tolling of the limitation period. "in appropriate cases, the principle of comity and finality that inform concepts of cause and prejudice must yield to the imperative of correcting a fundamentally unjust incarceration (citing Engle v. Isaak, 456 U.S 107, 135 (1982)). We remain confident that for the most part victims of a fundamental miscarriage OF JUSTICE will meet the cause and prejudice standard. But we do not pretend that this will be always be true. Accordingly, we think that in an extraordinary case, where a constitutional violation has probably resulted in conviction of one who is actually innocent a federal habeas court may grant the writ even in the absence of a showing of cause for the procedural default" Murray v. Carrier, 477 U.S.478, 495-6(1986)

Petitioner contends that hers is an "appropriate case" for the application of this exception.

F.) DISCOVERY OF EXCULPATORY EVIDENCE

In December of 2024, petitioner obtained newly discovered evidence that if proven and viewed in light of the evidence as a whole is sufficient to establish by clear and convincing evidence that no reasonable fact finder would have found her guilty of the offenses. This exculpatory evidence is material to the claim.

Petitioner avers that she could not have reasonably discovered the facts earlier and that the evidence is material to claim

CONCLUSION

Petitioner once again moves the court for a 90 days extension for her to file a 2255 motion. Wherefore above premises considered, petitioner moves this court to grant this motion in the nature of fairness and equity.

Submitted
01/13/2025


Exhibit 2

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA



JOHN E. TRIPLETT
CLERK OF COURT

ELIZABETH M. NELSON
CHIEF DEPUTY CLERK

September 26, 2024

Gladys Harun (#09407-510)
Federal Prison Camp
One Glen Ray Rd.
PO Box A
Alderson, WV 24910

Gladys Harun:

Your letter requesting a copy of your Motion for Discovery, Warrant for Arrest, Warrants for Seizure of Bank Accounts, Warrant for Seizure of Online Items, and Grand Jury Indictment Transcript (CR 322-009-001; CR 323-003-001) has been received.

A copy of your docket sheet in both of your criminal cases is being forwarded to you as a courtesy. There is not a Motion for Discovery on the record and the remaining documents you are requesting is not for public disclosure. If upon your review of the docket sheets you need a copy of any document, then you will need to remit the appropriate amount to the U.S. Clerk of Court and indicate the case number and the docket number of the copy you wish to obtain. The Clerk's office charges \$0.50 per page for copies.

Very truly yours,

JOHN E. TRIPLETT, CLERK OF COURT

By: *Janice Hodge*
Deputy Clerk

Exhibit 4



THE LAW OFFICE OF
JOHNNY VINES

Post Office Box 1422 • Metter, Georgia 30439 • vineslaw.com
Email: jeevines@vineslaw.com Telephone: (912) 388-7071 (912) 243-0519 Fax: (912) 537-6600

October 22, 2024

Alderson Federal Prison Camp
Inmate: Gladys Harun
Fed. No.: 09407510
P.O. Box A
Anderson, WV 24910

Re: October Letter

Dear Ms. Harun:

I received your letter. Please provide me with a 4-terabyte hard-drive. Once the hard-drive is received, I will try to send you an encrypted, redacted copy of your discovery.

Regards,

Johnny Vines, Esq.

cc: file

Exhibit 1

Gladys Harun
Fed No: 09407510
Dorm: B1
Alderson Federal Camp
One Glen Ray Rd
PO BOX A
Alderson WV 24910
09/11/24

Clerk of Court
United States District Court
Southern District Court
600 James Brown Blvd
Augusta Ga 30901

Re: request for documents

I hereby request you to send me a copy of these documents. I believe I was supposed to get a copy unfortunately all along the case I never had a chance to go through them. My lawyer did not share them either. Kindly send me a courtesy copy of the following:

1. Motion of discovery
2. Warrant of my arrest
3. Warrants for seizure of my bank accounts
4. Warrant for seizure of online items from internet protocol.

I do not have a way of paying; kindly send them free. I appreciate your help in this matter.

Thank you

Sincerely,

Gladys Harun

I would like also to have
a transcript of the grand
jury indictment.

Thank you

09407-510
United States Court
600 James Brown Blvd
Southern District
Augusta, GA 30901
United States



Fed VI: 0940 7510
Box B1
Federal Prison Camp
One Glen Rd
Box A
Anderson WV 24910

