

April 11, 2012

John Gregory Lambros
Reg. NO. 00436-124
U.S. Penitentiary Leavenworth
P.O. Box 1000
Leavenworth, Kansas 66048-1000

RE: MARCH 21, 2012 - TWO (2) U.S. SUPREME COURT DECISIONS EXPANDING THE OPPORTUNITY FOR DEFENDANTS TO OVERTURN THEIR CONVICTIONS ON THE BASIS OF POSTCONVICTION CLAIMS THAT THEIR ATTORNEYS DID AN UNREASONABLY POOR JOB DURING "PLEA NEGOTIATIONS". See, LAFLEER vs. COOPER, No. 10-209 and MISSOURI vs. FRYE, No. 10-444.

The above two (2) U.S. Supreme Court cases apply to John Gregory Lambros, as the following facts prove his attorney FAILED to give him competent counsel regarding a "PLEA OFFER". Therefore, the Supreme Court states that the prosecutor must re-extend the "PLEA OFFER", even if the Lambros received a fair trial after he rejected the offer, the Court makes clear. See, LAFLEER vs. COOPER, No. 10-209.

The following facts occurred within U.S. vs. JOHN GREGORY LAMBROS, Docket No. Cr.-4-89-82(05), U.S. Federal Court For The District of Minnesota:

1. NOVEMBER 16, 1992: U.S. Attorney Thomas B. Heffelfinger and Assistant U.S. Attorney Douglas R. Peterson mailed Attorney Charles W. Faulkner a copy of the government's written PLEA PROPOSAL, that was valid until November 23, 1992. The PLEA AGREEMENT stated the following facts:

- a. Page 2, Paragraph 4: "Conviction on the Count 1 charge, however, WOULD CARRY A MANDATORY TERM OF IMPRISONMENT OF LIFE WITHOUT PAROLE and a fine maximum of \$8 million."

2. NOVEMBER 17, 1992: Attorney Charles Faulkner's letter to John Gregory Lambros with copy of the above described November 16, 1992 letter and PLEA PROPOSAL from U.S. Attorney Heffelfinger. Attorney Faulkner states the following facts to Lambros within his letter:

- a. "Attached please find the results of our negotiations for a PLEA AGREEMENT in your case. It allows you considerable latitude to argue that you ought to be treated in the same range as the other defendants and IT AVOIDS THE MANDATORY LIFE COUNT. I think it is reasonable to conclude that the government won't go much further than this and that they WOULD RELISH THE POSSIBILITY OF TELLING JUDGE MURPHY THAT YOU WERE MADE A FAIR OFFER AND REJECTED IT, THUS SETTING YOU UP FOR A LIFE TERM WITHOUT POSSIBILITY OF PAROLE."
- b. "The agents would prefer you go to trial and get life."

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3. JANUARY 4, 1993: Jury panel selected and Lambros' trial started.
4. JANUARY 15, 1993: Jury found Lambros guilty of Counts 1, 5, 6, & 8.
5. JANUARY 27, 1994: Lambros was sentenced to the following terms of imprisonment:
 - a. COUNT 1: MANDATORY LIFE WITHOUT PAROLE;
 - b. COUNT 5: 120 months;
 - c. COUNT 6: 120 months;
 - d. COUNT 8: 360 months.

All sentences are to be served concurrently. Also, eight (8) years supervised release.

6. SEPTEMBER 8, 1995: The U.S. Court of Appeals for the Eighth Circuit VACATED Count One (1) - MANDATORY LIFE WITHOUT PAROLE - and remanded for resentencing on that Count. See, U.S. vs. LAMBROS, 65 F.3d 698 (8th Cir. 1995) The Court held that under the Ex Post Facto Doctrine, the MANDATORY LIFE WITHOUT PAROLE SENTENCE MUST BE VACATED, as it was imposed under the version of the statute not in place at the time of the conspiracy - Lambros could not receive a MANDATORY LIFE SENTENCE WITHOUT PAROLE.

7. FEBRUARY 10, 1997: Lambros was RESENTENCED ON COUNT ONE (1). Lambros was resentenced to 360 Months on Count One (1). The following facts occurred during Lambros' resentencing:

- a. Lambros was represented by Attorney Colia Ceisel.
- b. Transcript Page 4, 5, 6, & 7: "Despite the limited nature of these proceedings, the defendant has interposed numerous motions and supporting papers requesting relief from resentencing. Procedurally, these motions are somewhat unorthodox in that they appear to be addressed both towards convictions and sentences for which the defendant is currently incarcerated as well as the conviction for which he is ABOUT TO BE SENTENCED. THE DEFENDANT HAS INFORMALLY SUGGESTED THAT THESE MOTIONS BE CONSIDERED UNDER FEDERAL RULE OF CRIMINAL PROCEDURE 33, AS QUOTE, NEW TRIAL, END QUOTE, MOTIONS. HOWEVER, SUCH MOTIONS WOULD CLEARLY BE UNTIMELY EVEN IF CORRECTLY DENOMINATED AS RULE 33 MOTIONS. ALTERNATIVELY, THE COURT CAN SIMPLY DISMISS ALL OF THE MOTIONS NOT DIRECTLY RELATED TO THE PROCEEDINGS WITHOUT PREJUDICE. However, this would merely seem to ensure the defendant would raise them again on appeal and beyond, although many were previously litigated and thus are procedurally barred."

"THEREFORE, WITH THE EXCEPTION OF CERTAIN PRELIMINARY MATTERS, DEFENDANT'S MOTIONS WILL BE TREATED AS ARISING UNDER 28 UNITED STATES CODE, SECTION 2255, AND SUBJECT TO THE

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STATUTE - - I AM SORRY - - THE STRICTURES OF THAT
STATUTE." See, Page 5, Line 18 thru 23.

"THE DEFENDANT'S MOTIONS AT THIS TIME ARE DENIED.
A written, detailed order to that effect will follow."
See, Page 7, Lines 19 thru 21.

- c. Transcript Page 19 and 20: "Your Honor, when you were
speaking now, **YOU SAID ALL THE MOTIONS THAT ARE FILED
TO DATE ARE BEING CONSTRUED UNDER §2255?**"

"THE COURT: **THAT'S WHAT I SAID, YES.**"

"THE DEFENDANT: **OKAY. AND YOU ARE SAYING NONE OF THEM
ARE UNDER THE RULE 33?**"

"THE COURT: **YES.**"

"THE DEFENDANT: Okay. I would like to read from you the
Rule 33, and again I would like to reemphasize the interest
of justice facet of Rule 33, which I believe this court is
denying me the due process of, and a motion for a new trial
based on the grounds of newly discovered evidence may be
made only before or within two years after - - the key
word - - final judgment. Today is the final judgment,
Your Honor. **SO I BELJEVE ALL THE MOTIONS ARE VALID RULE 33
MOTIONS**, and I would like to continue under that - -
under those pretenses. Is it proper for me to ask you to
reconsider that at this point in time or no?"

"THE COURT: I assume you have asked me that. If that's
what you want to place of record, I recognize that as being
your position."

8. **APRIL 28, 1997:** Direct appeal as to **RESENTENCING** on February 10,
1997.
9. **SEPTEMBER 2, 1997:** Direct appeal as to **RESENTENCING** denied.
10. **JANUARY 12, 1998:** Writ of Certiorari denied as to **RESENTENCING**.
11. **JANUARY 2, 1999:** §2255 petition filed as to **RESENTENCING** on
Count One (1).
12. **APRIL 6, 1999:** Honorable Judge Robert G. Renner, **DISMISSED**
Lambros' §2255 petition.

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13. **MAY 3, 1999:** Motion for Issuance of Certificate of Appealability filed with district court.
14. **MAY 19, 1999:** Honorable Judge Robert G. Renner, granted Lambros' application for a Certificate of Appealability.
15. **SEPTEMBER 24, 1999:** Order by Eighth Circuit granting Lambros' motion for extension of time to file appellate brief. Order granted extension of time until October 4, 1999.
16. **NOVEMBER 30, 2000:** Eighth Circuit Court of Appeals affirmed the district court denial.
17. **FEBRUARY 1, 2001:** Lambros' Petition for Rehearing was denied.
18. **MAY 2, 2001:** Lambros filed a Writ of Certiorari to the U.S. Supreme Court and denied.

PLEASE CONSIDER THE FOLLOWING FACTS:

19. **2003: CASTRO vs. U.S., 540 U.S. 375, 383 (2003) - Pro Se federal prisoner's RULE 33 MOTIONS FOR NEW TRIAL, which district court **RECHARACTERIZED AS SECTION 2255 MOTION** without following prerequisites for such recharacterization, could not be "considered a first §2255 motion" and therefore prisoner's later section 2255 motion "cannot be considered a 'second or successive' motion".**

20. **MARCH 21, 2012:** The U.S. Supreme Court did not **DECIDE WHETHER:**
 - a. Missouri vs. FRYE, No. 10-444;
 - b. Lafler vs. COOPER, No. 10-209;

SHOULD BE APPLIED RETROACTIVELY, AS THAT ISSUE WAS NOT BEFORE THEM.