

cc: Som/pet

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

AUG 17 2015

at 4 o'clock and 30 min. P.M.
SUE BEITIA, CLERK

John Gouveia, Jr.
Reg. #87399-022
F.C.I. Terminal Island
P.O. Box 3007
San Pedro, CA 90731
Pro se Petitioner/Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

| | | |
|---------------------------|---|---------------------------------------|
| JOHN GOUVEIA, JR., |) | No. CV13 00484-SOM-RLP |
| |) | |
| Petitioner/Defendant, |) | No. 1:08-CR00739-SOM-2 |
| |) | |
| vs. |) | <u>PETITIONER'S MOTION REQUESTING</u> |
| |) | <u>COURT TO VACATE JUDGMENT,</u> |
| UNITED STATES OF AMERICA, |) | <u>REOPEN PROCEEDINGS AND HOLD</u> |
| |) | <u>EVIDENTIARY HEARING; AND</u> |
| Respondent. |) | <u>DECLARATION AND EXHIBIT IN</u> |
| |) | <u>SUPPORT THEREOF.</u> |

On September 23, 2013, pro se petitioner/defendant John Gouveia, Jr., filed a 28 U.S.C. § 2255 motion collaterally attacking his conviction on four grounds. In one of his grounds for relief petitioner asserted that he is actually innocent of the three counts. See Memorandum of Points and Authorities, at pages 16-17. He also submitted a personal declaration in support of his factual innocence and requested an evidentiary hearing with Jose Perez present, so that he could conclusively demonstrate his innocence. Id., at page 17-18, and Exhibit E-1 through E-5.

On July 28, 2014, Honorable Susan Oki Mollway denied his claim of factual innocence as well as an evidentiary hearing solely on the basis of the Declaration of Jose Perez -- prepared by his attorney -- which stated: "I will not be a

Mailed On
Date 08/18/15-2

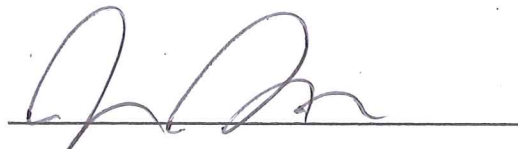
1 witness for either side ... nor ... sign a declaration for
2 either side. I do not wish to have any further involvement in
3 this case." Order, pages 16, 27, and 28. (Doc. 519)(7/28/2014).
4 The Court then issued its Judgment in this civil case on
5 August 25, 2014. (Doc. 5).

6 On or about August 2, 2015, petitioner received out-of-
7 the-blue an unsolicited letter from Jose Perez, which states,
8 in relevant part:

9 I'm sorry I refused to testify at the evidentiary
10 hearing. I was just kind of scared, but I gave it
11 alot of thought, and [I'm] ready to make things
12 right. I'm willing to testify at a evidentiary
13 hearing to tell the truth. I hope that its not
14 to[o] late. Exhibit A.

15 In light of this new development and new evidence,
16 petitioner respectfully requests that the Court (1) vacate its
17 August 25, 2014 Judgment pursuant to Rule 60(b) of the Federal
18 Rules of Civil Procedure; (2) reopen these Section 2255
19 proceedings; and (3) schedule an evidentiary hearing with
20 Jose Perez and petitioner present.

21 RESPECTFULLY SUBMITTED on this 11th day of August,
22 2015.

23 

24 John Gouveia, Jr.

25 Pro se Petitioner

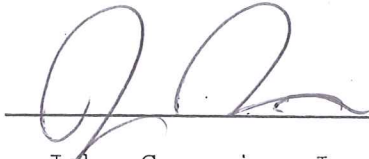
DECLARATION OF JOHN GOUVEIA, JR.

I, John Gouveia, Jr., do hereby declare under penalty of perjury and the laws of the United States of America that the following is true and correct:

(1) I am the petitioner/defendant in these 28 U.S.C. § 2255 proceedings, in the District of Hawaii, Case No. CV13-00484-SOM-RLP as well as in the instant pleading; and

(2) Exhibit A attached to this pleading to vacate the Court's Judgment and reopen the § 2255 proceedings is a true and correct copy of the unsolicited letter I recently received at the federal prison on Terminal Island, California from Jose Perez and the envelope the letter came in.

EXECUTED on this 11th day of August, 2015, in Los Angeles County, California.

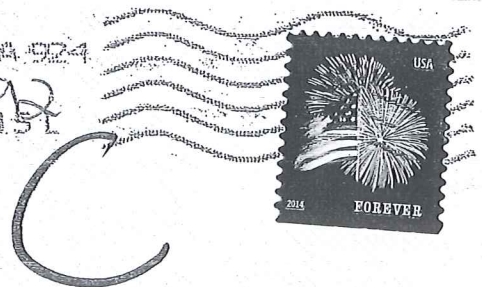

John Gouveia, Jr.
Reg. #87399-022
F.C.I. Terminal Island
P.O. Box 3007
San Pedro, CA 90731

Hey John how are you doing?
hope your ok. Im sorry I refused
to testify at the evidentry hearing.
I was just kind of scared, but I
gave it a lot of thought, and ready
to make things right. I'm willing
to testify, at the evidentry hearing to
tell the truth, I hope that
its not to late.

Jose Perez

P.S. Sorry I couldn't
do it earlier

Jose Perez SN BERNARDINO CA 924
81600 Fred Waring St 192
Indio, CA 92201 2036



John Gaveida 8739905
FCI
P.O. Box 3007
San Bernado CA 90731

Certificate of Service

I, John Gouveia, Jr., do hereby declare under penalty of perjury and the laws of the United States that I have served a true and correct copy of my Motion Requesting the Court to Vacate the Judgment, Reopen Proceedings and Hold an Evidentiary Hearing, on:

Jonathan Loo, AUSA
District of Hawaii
U.S. Courthouse
300 Ala Moana Blvd.
Honolulu, HI 96850

by placing same in a prepaid postage envelope and hand delivering it to prison authorities for forwarding through the United States Postal Mail Service on this 11th day of August, 2015.



John Gouveia, Jr.
Reg. #87399-022
F.C.I. Terminal Island
P.O. Box 3007
San Pedro, CA 90731

John Gouveia, Jr. #87399-022
Federal Correctional Institution
P.O. Box 3007
San Pedro, CA 90731



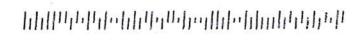
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CLERK U.S. DISTRICT COURT

AUG 17 2015 *Y*

DISTRICT OF HAWAII
ca. 50m

⇄87399-022⇄
Us Distric Court
Court Clerk
300 ALA Moana BLVD
District of Hawaii
Honolulu, HI 96850-0338
United States

Legal Mail



FEDERAL BUREAU OF INVESTIGATION
TERMINAL 307341

DATE 8/15/12

The enclosed is a Special Mail, and should be opened to you. The writer has been asked to not inspect it. If the writer has jurisdiction, it should be returned to the writer. If the writer does not have jurisdiction, it should be forwarded to the writer's address. If the writer does not have jurisdiction, it should be returned to the writer's address.