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The case filed by “People of the State of New York, Plaintiff” against “Antonio Feliz Rodriguez, Defendant”, was decided on November07, 2019. It was filed on August 06, 2002, stating that defendant committed class A Misdemeanor of New York State Penal Law 221.05 Endangering the Welfare of a Child and the violation of New York State Penal Law §221.05, Unlawful Possession of Marijuana.

**Summary**

The defendant was accused of possession of a small bag containing marijuana and he was smoking marijuana, with a baby in his lap aged 5 months and child aged 3 years sitting beside him. The defendant was prosecuted for these charges on August 20, 2002 and pleaded non-guilty to accusations. He was released prior to trial without bail. It is mentioned in court’s order that the Columbia County Public Defender's office took part on defendant’s behalf. On the other hand, there is no record, nor the defendants remember about which the assistant of public defender appeared in 2002. On September 17, 2002, the defendant pled guilty to one of the charges, Endangering the Welfare of a Child. This plea also covered the other accusation of passion of marijuana. For this, the defendant was fined $100 with additional mandatory surcharge. Then on or near April 13, 2019, a notice of motion wanting order to drop defendant's plea in assent with New York Criminal Procedure Law §440.10(1)(h), on basis of "the judgment was obtained in violation of a right of the defendant under the constitution of this state or of the United States.", was received by court. On May 02, 2019, the motion was heard by the court in which defendant and counsel for People appeared according to briefing schedule. The defendant presented memorandum of law, to support motion on May 16. But on June 02, the People admitted an affirmation opposing the motion. On behalf of defendant, James P. Milstein, Esq. and Robert Linville, Esq submitted reply affidavits to court. The court provided both parties to submit additional memorandum of law and it reserved the decision on August 29. The defense council admitted it on September 29 while the People stated that they do not want to submit anymore. The defendant has specified that he was aged 38 years when he was first arrested. He did not have citizenship at that time, but he is residing in US from when he was aged 6 years. He mentioned that he was mis-guided by his attorney that his plea would not affect his immigration status when he submitted plea of guilty. He also states that Department of home land security has issues proceeding for deportation for the guilty plea, he made earlier. He is currently released but he must appear in the Immigration Court in Buffalo. He states that it was never mentioned in court sessions that this crime was deportable. The defense council is of view that if the defendant must leave US, he would not have a family relation as all of them are residing in US. It is stated by defense that his right according to Sixth Amendment are violated when the guilty plea was obtained. Moreover, he states that defense council failed to determine the defendant's specific immigration status and advise accurately about the consequences. He has put forward his argument that result of deportation would be harsh and rare penalty, which is inconsistent with class A Misdemeanor verdicts. Thus, this is violation of defendant’s right according to Eighth Amendment.

The People opposed the motion set by defendant for many reasons. Firstly, the motion was not proper according to NY Criminal Procedure Law §440.10. Secondly, the claim that defendant was unaware of situation is not fact based and his counsel aided him the best they could. His claim that counsel was not helpful because he could not prove that. Thirdly, the conviction was valid, and it was defendant’s responsibility to provide proof. Moreover, defendant is not able to benefit from Padilla Holding as that occurred before this case. The defendant did not admit affidavit at time of guilty plea. Also, defendant does not have to content with Strickland’s Prejudice test fully, but he must show whether he was tried justly. The People asserted that defended availed an effective counsel and because of them he was able to avoid sentencing of over one year. Now if after seventeen years, The People is asked for proof or if the plea is vacated, it will be unjust.

After analyzing each fact and claim, the court has allowed the defendant to vacate guilty plea made by him seventeen years ago. This decision is on the basis that deporting someone after seventeen year have passed since his guilty plea, is rare and cruel punishment. Both parties are summoned on November 14 for more proceedings (“People v Rodriguez”).

**Analysis**

If the case is critically analyzed, it is observed that crime of the defendant was not as severe as the punishment he could have received. Despite the accusations, defender should have access to information and effective counsel. Defendant has claimed that he was misinformed of the fact that if he plead guilty, he could be deported. The opposition of The People is based on their claim that the defendant has not proven that his counsel had misinformed him. The court realizes that earlier in 2002, the accusation was referred as offense against the child and deportation was justified under these circumstances. But it is also understood by court that back in 2002, the someone who is defendant, will not face deportation. It seems that because the federal government did not enforce immigration law for past 15 year almost is followed in this case. From perspective of the defendant, he has lived since he was aged six, with all his family members in US. Now deporting him would be equivalent to exile.

**Reflection**

After understanding the seventeen years of proceeding of this case, I believe it would have been unjust to the defendant if he was deported. The policies and laws enforced today in US were not anticipated back then. If the People wanted to punish him, they should have acted fifteen years ago. Although, if they had tried to deport him back then, it would be illegal.

**Works Cited**:

“People v Rodriguez.” *Justia Law*, https://law.justia.com/cases/new-york/other-courts/2019/2019-ny-slip-op-29335.html. Accessed 15 Nov. 2019.