

IN THE
UNITED STATES SUPREME COURT

No. 18-5158

MARIO LEE BROWN,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

MARIO LEE BROWN #51449-018
FEDERAL CORRECTIONAL INSTITUTION
PO. BOX. 1032
COLEMAN, FLORIDA 33521 - 1032

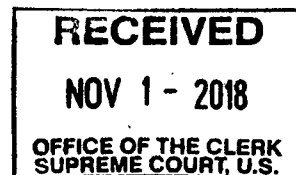


TABLE OF CONTENT

CERTIFICATE OF COMPLIANCE	i
OCTOBER 1, 2018, DENIAL OF CERT	ii
TABLE OF CONTENT	iii
REASONS FOR GRANTING REHEARING	1
GROUND(S) NOT PREVIOUSLY PRESENTED	1
INTERVENING CIRCUMSTANCES	2
CONCLUSION	4
CERTIFICATE OF SERVICE	4
APPENDIX A, B, C.	

REASONS FOR GRANTING REHEARING

I.

OTHER SUBSTANTIAL GROUNDS NOT PREVIOUSLY PRESENTED

Petitioner raised the question whether the ... Eleventh Circuit erred denying his Certificate of Appealability request. See Q1. However, proceeding pro-se and construing Petitioner's writ liberally, the Court should consider granting rehearing as to whether the Eleventh Circuit applied a heightened standard of review contrary to the Supreme Court's decision in Buck v. Davis, 137 S. Ct. 759, 773, 197 L. Ed. 2d (2017). Specifically, because neither the Eleventh Circuit or the District Court considered the merits of Petitioner's arguments. The United States district court in conjunction with the Panel of Eleventh Circuit judges failed to **resolve [all]** of Petitioner's claims presented in his § 2255. As an initial matter, district judges must resolve all claims for relief raised in a habeas petition, ... regardless whether relief is granted or denied. See Clisby, 960 F.2d at 935-36; Rhode, 583 F.3d at 1291.

(holding Clisby applies to 28 U.S.C. § 2255 ... proceedings). When a district judge fails to address all of the claims presented in a motion to vacate, we "will vacate the judgement without prejudice and remand the case for consideration of all remaining claims." Clisby, 960 F.2d at 938. A "claim for relief" is defined as "any allegation of a constitutional .. violation." Id at 960. Allegations of distinct constitutional violations constitute separate claims for relief. "even if both allegations arise from the same alleged set of operative facts." Id. Ineffective assistance of counsel constitutes a violation of the .. defendant's Sixth Amendment rights and is a claim of a constitutional violation. See Strickland, 466 U.S. 668 (1984). Petitioner raised the Clisby violation in his request for Certificate of appealability, ... but failed to raise it in his Petition for writ of Certiorari. See (COA). See Grounds I/V/VII attached hereto as App A. Because no lower court considered the merits of Petitioner's (3) arguments, and is .. seeking (COA) at this stage, his burden is lighter[.] Petitioner must demonstrate that his claims of constitutional violations were such that a jurist of reason

could debate the district court's disposition of the issues. Miller-El, 537 U.S. 322 (2003)(.... quoting Slack 529 U.S. 473 (2000)). We are charged with reviewing the case only through this prism and thus must make only a general assessment of the merits. See Buck v. Davis, 137 S. Ct. 759, 773, 197 L. Ed. 2d 1 (2017).

INTERVENING CIRCUMSTANCES OF SUBSTANTIAL OR
CONTROLLING EFFECT

Petitioner raised in his questions presented Whether Fla Robbery under Fla. Statute § 812.13 qualifies as an ACCA predicate in light of Stokeling v. United States, See Q4. Petitioner herein moves the Court to rehear or in alternative relist his .. writ for consideration in light of Stokeling. Other Court's across the United States are granting stays in order to promote conservation of valuable judicial resources. See App B. See United States v. McCurry, U.S. Dist. LEXIS 116738 (D. Min. 2018). see also ... United States v. Daniels, U.S. App. LEXIS 21265 (11th Cir. 2018). App C. Petitioner's success of relief in the lower court is hinged on the Supreme Court's ..

anticipated decision in Stokeling v. United States,
138 S. Ct. 1438, 200 L. Ed 2d 717. Petitioner moves
herein for a relist or reharing -in light of Stokeling.

FOR THE REASOSN STATED HEREIN Petitioner moves
for the relief requested above.

10/22/2018



MARIO LEE BROWN 51449-018
FEDERAL CORRECTIONAL INSTITUTION
PO. BOX. 1032
COLEMAN, FLORIDA 33521 - 1032

CERTIFICATE OF SERVICE

I certify under penalty of perjury that I mailed
a copy of the Rule 44 motion to the SG 950 PENNSYLVANIA
AVENUE, ROOM 5616, WASHINGTON, D.C. 20530. Pursuant
to 28 U.S.C. § 1746.



MARIO LEE BROWN #51449-018

**Additional material
from this filing is
available in the
Clerk's Office.**