

No. \_\_\_\_\_

\_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES

\_\_\_\_\_

Antonio Martinez-Lopez — PETITIONER  
(Your Name)

vs.

United States of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Court of Appeals for the Sixth Circuit  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Antonio Martinez-Lopez  
(Your Name)

Federal Prison Camp - Maxwell AFB  
(Address)

Montgomery, AL 36112  
(City, State, Zip Code)

N/A  
(Phone Number)

## QUESTION(S) PRESENTED

1) Did the appeals court err in affirming petitioner's conviction for unlawful procurement of naturalization pursuant to 18. U.S.C. 1425 based on petitioner's false statement on the citizenship application when the Supreme Court determined in Maslenjak v. U.S., 582 US \_\_\_, 137 S.Ct. \_\_\_, 198 (Ed 2d 460 (2017) that a false statement on a citizenship application does not meet the criteria for revocation of citizenship unless the illegal act played some role in the acquisition of citizenship.

## LIST OF PARTIES

☒ All parties appear in the caption of the case on the cover page.

☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

## TABLE OF AUTHORITIES CITED

### CASES

### PAGE NUMBER

Maslenjak v. U.S., 582 US \_\_\_, 137 S.Ct., 198 L.Ed. 2d 460 (2017)

Kungys v. U.S., 485 U.S. 759, 780, 108 S.Ct., 1537, 99 L.Ed. 2d (1988)

Fedorenko v. U.S., 449 US 490, 101 S.Ct. 737, 66 L. Ed. 2d 686 (1981)

Costello v. U.S., 365 U.S. 265, 269-272, 81 S.Ct. 534 5L Ed 2d 551 (1961)

Schneiderman v. U.S., 320 U.S. 118, 122-123, 63 S.Ct. 1333 87 L.Ed (1943)

### STATUTES AND RULES

18 U.S.C.S. 1425

8 U.S.C. 1427

### OTHER

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IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

The opinion of the United States district court appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

## JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was August 23, 2018.

☒ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_\_\_ A \_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was \_\_\_\_\_.  
A copy of that decision appears at Appendix \_\_\_\_\_.

☐ A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_\_\_ A \_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

## STATEMENT OF THE CASE

This case turns on the applicability of Maslenjak v. U.S., 582 US, S.Ct., 460 (2017) to petitioner's case. Petitioner was convicted by jury trial of unlawful procurement of naturalization pursuant to 18 U.S.C.S. 1425(a). The Government asserted at trial that Petitioner lied on the citizenship application when he answered "No" to the question: "Have you ever committed ... a crime or offense for which you were not arrested?" The Court decided in Maslenjak that an illegal act in connection with the citizenship application must have played some role in the naturalization for the defendant to have citizenship automatically revoked. In other words, the deception or illegal act demands a causal or means-end connection between a legal violation and naturalization Id.

The Sixth Circuit failed to take this precedent into consideration when affirming Petitioner's conviction.

### Proceedings Before This Case

Petitioner was convicted in a jury trial on 22 counts including Conspiracy to Commit Mail Fraud, Health Care Fraud, Mail Fraud and Unlawful Procurement of Naturalization on March 15, 2017. Petitioner was sentenced on July 21, 2017. Petitioner filed a timely appeal on December 28, 2017. On August 23, 2018 the Sixth Circuit Court of Appeals affirmed the convictions.

Petitioner appeals the conviction for Unlawful Procurement of Naturalization.



## REASONS FOR GRANTING THE PETITION

Maslenjak v. U.S. established that it is improper to strip citizenship from an individual for simply making a false statement on a citizenship application in which the false statement had no causal effect on the determination for approval of citizenship. Despite this ruling the Sixth Circuit Court of Appeals failed to apply this precedent to Petitioner's case.

Petitioner signed a citizenship naturalization application on or about February 8, 2013. Count 22 alleged Petitioner lied on the application and knowingly made false statements in connection with his application. The Government asserts that Petitioner committed a crime on October 13, 2012 by participating in a staged car accident involving Mr. Acuna Rosa. Petitioner maintains that he was not involved in the October 13, 2012 crime and did not lie on his February 8, 2013 application. Petitioner asserts that his participation in this staged car accident is irrelevant in light of Maslenjak. The Government asserts that Petitioner lied on the application question: Have you ever committed a crime or offense for which you have not been arrested? EVEN IF Petitioner lied on the application it is not grounds to find Petitioner guilty of Unlawful Procurement of Naturalization. The Government must prove that the misrepresented fact was sufficiently relevant to a naturalization criterion that it would have prompted reasonable officials, "seeking only evidence concerning citizenship qualifications," to undertake further investigation. Kungys v. U.S., 485 US 759, 780, 108 S.Ct. 1537, 99 L. Ed. 2d 839 (1988) The Court rejected the Government's position that under 1425(a) any lie in the naturalization process would provide a basis for rescinding citizenship.

When the underlying illegality alleged in a § 1425(a) prosecution is a false statement, a jury must decide whether the false statement so altered the naturalization process as to have

## REASONS FOR GRANTING THE PETITION

influenced an award of citizenship. Maslenjak at 463. The jury instructions did not make this distinction. The jury was instructed that if it found the Petitioner culpable in the October 13, 2012 staged car accident, then Petitioner's statement on the citizenship application can be considered false. Furthermore, the jury could then determine that the false statement convicts Petitioner of Unlawful Procurement of Naturalization under 18 U.S.C. 1425(a). The jury was not given instructions to assess whether the false statement was causal in the application process or material to Petitioner obtaining citizenship.


Since the Government did not prove that the false statement was causally connected to procuring acquisition of citizenship, this conviction should be vacated. The Court has explicitly stated that the Court has never read a statute to strip citizenship from someone who met the legal criteria for acquiring it. See, e.g. Fedorenko v. U.S., 499 US 490, 505-507, 101 S.Ct. 737, 66 L.Ed 2d 686 (1981); Costello v. U.S., 365 US 265, 269-272, 81 S.Ct. 534, 5 L.Ed. 2d 551 (1961); Schneiderman v. U.S., 320 US 118, 122-123, 63 S.Ct. 1333, 87 L.Ed 1796 (1943). Qualification for citizenship is a complete defense to a prosecution brought under § 1425(a).

The jury instructions were in error. As previously stated, the District Court instructed the jury that it could convict based on any false statement in the naturalization process no matter how inconsequential to the ultimate decision. The instructions were erroneous therefore the conviction should be vacated. The Petitioner meets all of the criterion for citizenship which is illustrated by the government's decision to grant Petitioner citizenship.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



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Date: September 17, 2018