

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Jesse B. Ingram Jr. — PETITIONER
(Your Name)

VS.

United States of America --- RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

11th Circuit Court of Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Jesse B. Ingram Jr. #67741-018
(Your Name)

FCI Colmen Medium, P.O. Box 1032
(Address)

Colmen, FL 333521
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

- 1). Is it a Fifth Amendment violation when Petitioners are sentenced to a higher guideline sentence when 18 U.S.C. statute 3553(A) warrants a below guidelines sentence.
- 2). Is McCoy v. Louisiana 584 U.S. ____ (2018) which is retroactive to the Petitioner on direct review when appellate counsel prejudices Petitioner by not challenging the illegally enhanced sentence.

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:

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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☒ is unpublished.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☒ is unpublished.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☒ is unpublished.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☒ is unpublished.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 April 5th, 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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Constitutional Authorities

Amendment 5	-----	P. 5
Amendment 6	-----	P. 5
Amendment 8	-----	P. 5

Statutory Provisions

18 U.S.C. 3553(A)	-----	P. ii
18 U.S.C. 924(A)(2)	-----	P. 4
18 U.S.C. 922(a)(1)	-----	P. 4
18 U.S.C. 924(c)(1)(1)	-----	P. 4
21 U.S.C. 841	-----	P. 4
21 U.S.C. 846	-----	P. 4
28 U.S.C. 1254	-----	P. 2
28 U.S.C. 994(A)(1)	-----	P. 5

Cases

Anders v. California 386 U.S. 738 (1967)	P. 5
Cronic v. United States 466 U.S. 648 (1984)	P. 5
Molina-Martinez v. United States 136 S. Ct. 1338 (2016)	P. 5
Class v. United States 584 U.S. _____ (2018)	P. 5
Rita v. United States 551 U.S. 338 (2007)	P. 5
Hall v. Florida 134 S. Ct. 1986 (2014)	P. 5

STATEMENT OF THE CASE

On 09-28-2016 D.E.1 Petitioner was indicted on the following 18 U.S.C. statute 922(g)(1) and 18 U.S.C. statute 924(a)(2) Possession of a firearm by a convicted felon offense date August 04, 2016, Count 2: 21 U.S.C. statute 846, 21 U.S.C. statute 841(a)(1) and 21 U.S.C. statute 841(b)(1)(C) Attempt to possess with intent to distribute heroin on September 14, 2016 Count 3: 18 U.S.C. statute 922(g)(1) and 18 U.S.C. statute 924(A)(2) Possession of a firearm by a convicted felon on September 30, 2016 Count 4: 21 U.S.C. statute 846, 21 U.S.C. statute 841(a)(1) and 21 U.S.C. statute 841(b)(1)(C) Attempt to possess with intent to distribute heroin on September 30, 2016 and Count 5: 18 U.S.C. statute 924(c)(1)(A) and 18 U.S.C. statute 924(c)(1)(A)(i) Carrying a firearm in relation to a drug trafficking offense on September 30, 2016. Petitioner was arrested on October 03, 2016 D.E.4 Petitioner was appointed Federal Defender Karla R. Spalding D.E.7 on October 03, 2016. Petitioner was Superseded on October 26, 2016 with counts 3 and 4. Petitioner plead guilty on March 29, 2017 D.E. 66. Petitioner plead guilty D.E. 81 and 82. Petitioner plead guilty to counts 1,2,3,4, and 5 of the Superseding indictment D.E. 83 and was sentenced to 185 months, 125 for counts 1-4 of the Superseding indictment and 60 months for count 5 of same and was given an order of forfeiture. Petitioner filed an appeal. During the appeal Petitioner's attorney filed an Anders v. California brief 386 U.S. 738(1967) claiming among other things that he did not have non-frivolous merits for an appeal. Petitioner filed a reply Pro Se challenging the validity of not receiving an appeal. Petitioner lost his chance at obtaining an appeal due to the attorneys allegation that the issue he had did not have merit even though the sentencing Judge conceded and the attorney for the government conceded that Petitioner qualified for a downward variance, Petitioner's appeal counsel still filed on Anders v. California 386 U.S. 738 (1967) which violated, inter alia the district court judge sentencing Petitioner without taking into consideration the current guidelines which was a plain error and as such should have been appealed to the Appellate Court constituting a direct Molina-Martinez issue.

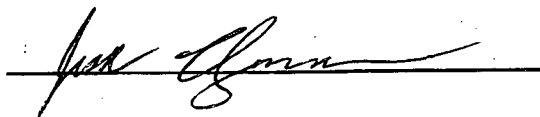
REASONS FOR GRANTING THE PETITION

Petitioners Fifth, Sixth, and Eighth Amendment rights have been violated. There are thousands of similarly situated defendants that face similar violations daily when it comes to sentencing based on the guidelines. For instance when Petitioner was sentenced the guidelines play a significant factor. The Sentencing Guidelines provide the framework for tens of thousands of federal sentencing proceedings that occur each year. Congress directed the United States Sentencing Commission (USSC or Commission) to establish the guidelines, 28 U.S.C. statute 994(A)(1). The goal was to achieve "uniformity in sentencing... imposed by different Federal Courts for similar criminal conduct; as well as proportionality in sentencing through a system that imposes appropriately different sentences for criminal conduct." quoting Molina-Martinez 136 S. Ct. 1338 199 L.Ed. 2d 451 of different severity. Quoting Rita v. United States, 551 U.S. 338, 349, 127, S. Ct. 2456, 168 L.Ed 2d 203(2007). In the Petitioners sentencing the District Court acknowledged that Petitioner had significant mental and psychological effects from his mental state, but still sentenced him to the high end of the guidelines. Petitioners Due Process rights were violated when his appellate attorney failed to attack the sentence he received that was illegal, whereas in Molina-Martinez, 136 S.Ct. 1338, 1345, 194 L.Ed 2d 494 (2016) states "[W]hen a defendant is sentenced under an incorrect guidelines range, The error will usually result in prejudice to the defendant." That prejudice occurred when petitioner was still represented by the same office that initiated the actual prejudice, in Cronin v. United States 466 U.S. 648 (1984) this Court stated that an attorney is to be an advocate for the defendant not an adversary against him. When Petitioner plead, which was an open plea, the Court stated that he had the ability to file an appeal, in Class v. United States 584 U.S. ____ (2018) "This Court has reaffirmed that the Menna-Blackledge doctrine's basic teaching that 'a plea of guilty to a charge does not waive a claim.' Quoting Class. Therefore under Class v. United States 584 U.S. ____ (2018) that would warrant a G.V.R. because counsel not only mislead Petitioner about his chances of a plea, but barred him under Anders v. California 386 U.S. 738 (1967) in which the court adopted given the fact the Courts acknowledged Pettiotner suffered from a mental disability based on Hall v. Florida, 134 S. Ct. 1986, 188 L.Ed 2d 1007 (2014) "The Eighth Amendment bars the execution of people who are intellectually disabled according to current medical standards. Petitioner met the medical standards when his mental records and school records were admitted as evidence to show what Petitioner suffered from mentally. Petitioner prays that this Court grants certiorari in light of Class v. United States and remand back to the district based on the fact he was not given a sentence with the correct guidelines.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 6/19/18