

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

Malcolm Bolden — PETITIONER
(Your Name)

Solicitor General ^{vs.} RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States District Court for Eastern District of La
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Malcolm Bolden
(Your Name)

P.O. Box 5000
(Address)

Yazoo City, MS 39194
(City, State, Zip Code)

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(Phone Number)

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QUESTION(S) PRESENTED

Did the district court err by admitting and then considering Darren Clark's testimony as the only evidence that substantially increased petitioner's sentence under the Federal Sentencing Guidelines?

Did the district court err by accusing petitioner of the untimely death of Kevin Ryan, although Darren Clark refused to seek medical attention for the deceased for almost 12 hrs.

Did petitioner's attorney represent ineffectual assistance of counsel by not investigating any preliminary reports, exhibits, as well as not cross examining the person whom gave the deposition on behalf of the government.

LIST OF PARTIES

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

[x] 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:

1. Solicitor General
2. United States Court of Appeals
for the Fifth Circuit
Eastern District of Louisiana
3. Darden Clark (material witness)
623 Bellinpath Lane
Bridell, La 70458
(provided a sworn deposition
to the Federal grand jury
stating the statements made
sworn to be true)

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TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

*Marcus Andrew Burrage, Petitioner
V. United States*

*The Inyl Court Hearing
[https://law.justia.com/constitution/us/
amendment-6/15-effective-assistance
of-counsel-sixth-amendment-rights](https://law.justia.com/constitution/us/amendment-6/15-effective-assistance-of-counsel-sixth-amendment-rights)*

STATUTES AND RULES

OTHER

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 A 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 E to the petition and is

☒ reported at Supreme Court of the U.S.; 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 8/8/18.

☐ 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: 8/8/18, and a copy of the order denying rehearing appears at Appendix A.

☐ 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).

Opinion

1

This is a certiorari to the United States Supreme Court to review a decision reported at the United States Court of Appeals for the Fifth Circuit for the Eastern District of Louisiana issued August 8, 2018. *Burrage v. United States* Citation 571 U.S. prior history 687 F.3d 1015

Jurisdiction

2

United States of America

Malcolm V. Bolden

Appeal from the United States
District Court for the Eastern
District of Louisiana

Certified order entered Aug 28, 2018

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

3

(U.S.C. Const. Amend VI)
(U.S.C. Const. Amend XIV. Sec. 1)

STATEMENT OF THE CASE

4

Peterson was charged with distribution of heroin resulting in the death of Kevin Ryan violation of Title 21, United States Code, Sections 841 (a)(1) and 841 (b)(1)(C), and title 18 US Code, Section 2.

The federal indictment which led to Count 2 was provided by /interviewed by CS Derrin Clark of 623 Bellinpath Dr. S. Sedell, No 70458 whom stated on 7/26/13 around 6:24pm contacted co-defendant to purchase approximately one gram of heroin. There after according to CS Peterson allegedly arrived an hour later, transacting approximately \$2000 worth of heroin. Soon after alleged purchase the CS (Derrin Clark) made a solution and injected it but allegedly missed his vein. The CS ~~Sedell~~ Derrin Clark) drove back towards

Statement of Case (cont)

Slidell on Interstate-10 as Ryan (deceased) prepared the remainder of the heroin and injected it. Within a couple of minutes, Ryan slumped over and began to snore heavily per Federal Government report.

The Federal reports also states that the deceased Kevin Ryan was "already messed up" prior to meeting with CS.

The CS (Denny Clark) has no information of what the deceased consumed prior to them meeting up.

REASONS FOR GRANTING THE PETITION

5

The reasons for granting writ are
The Frye Court observed that according
to the Bureau of Justice Statistics,
ninety-four percent of recent State
convictions had resulted from guilty
pleas. Hill vs. Lockhart had earlier
established a basis for a Sixth Amendment
challenge to a conviction arising from a
plea bargain if a defendant could show
he accepted the plea after having
received ineffective assistance of
counsel. By laying a basis for a
Sixth Amendment challenge to a failure
to accept a plea offer from the prosecution,
Frye and Lopez recognized the possibility
of prejudice from ineffective bargaining
alone regardless of the fairness of
a subsequent conviction after a
later plea to the court or a full trial.

Reason for Writ (Cont)

The additional reason for writ is the CS (Darren Clark) has no idea of what the deceased had consumed (drugs) prior to meeting. The deceased's deceased toxicology reported stated there were several different substances found. The coroner's report filed 7/27/13 listed the deceased death as accidental resulting in poly-substance drug toxicity of Heroin, Xanax, THC and alcohol.

In the United States, as of 1009 states has laws on the books requiring that people at least notify law enforcement of and for seek and for strangers in peril under certain conditions. The Federal report states that Devin Clark accompanied Kevin Ryan (deceased) for over 12 hours prior to calling EMS which stated deceased has liver expired several hours ago.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Malcolm Balden

Date: 11/3/2018