

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)

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(City, State, Zip Code)

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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 ineffective 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.

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. Darren Clark (material witness)  
623 Bellinpath Lane  
Bladell, 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

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Marcas Andrew Burroge, Petitioners  
v. United States

The Trial Court Hearing.

[https://law.justia.com/constitution/us/  
Amendment-06/5-effective-assistance  
of counsel-/-sixth-Amendment-rights](https://law.justia.com/constitution/us/Amendment-06/5-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 US; 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 2/8/18.

[ ] 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 A, 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

V

Malcolm, Badden

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)

4

STATEMENT OF THE CASE

Pethoxer was charged with distribution of heroin resulting in the death of Kevin Ryan in 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 1 was produced by Interneval by CS Darren Clark of 623 Bellopath Dr. Sedell, Inc 70458 whom stated on 7/24/13 around 6:34pm contacted co-defendant to purchase approximately one gram of heroin. There after according to CS Darren Clark allegedly arrived an hour later, transacting approximately \$20.00 worth of heroin. Soon after alleged alleged purchase the CS (Darren Clark) made a solution and injected it but allegedly missed his vein. The CS (Darren Clark) dropped 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 Klein 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 further  
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 offer 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 Lockhart recognized the possibility  
of prejudice from ineffective bargaining  
alone regardless of the fairness of  
a subsequent conviction after a  
defendant pled to the court or a full trial.

## Reason for Writ (Cont)

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

In the United States, as of 2009 states has laws on the books requiring that people at least notify law enforcement of and for seek aid for strangers in peril under certain conditions. The federal report states that Dennis Clark accompanied Kevin Ryan (deceased) for over 12 hours prior to calling EMS which stated deceased has was expired several hours ago.

## **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Malcolm Bolden

Date: 11/3/2018