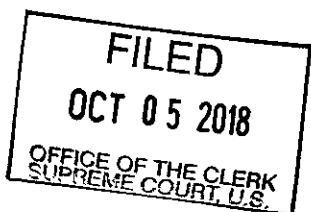


18-8632

No. 18-6846

ORIGINAL

IN THE



SUPREME COURT OF THE UNITED STATES

MARCOS LOPEZ-GUZMAN — PETITIONER  
(Your Name)

vs.

GENERAL ATTORNEY — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO :  
UNITED STATES SUPREME COURT

U.S. COURT OF APPEALS, FOR THE FOURTH CIRCUIT

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

MARCOS LOPEZ-GUZMAN

(Your Name) Reg No. 50643-056

D. RAY JAMES C.I. P.O. BOX 2000

(Address)

FOLKSTON, GA 31537

(City, State, Zip Code)

NONE.

(Phone Number)

QUESTION(S) PRESENTED

- (I) Whether the United States Court of Appeals committed a clear error denying Appellant's two-level reduction pursuant to § 3582(c)(2) and Amendment 782, and was made retroactive pursuant to Amendment 788.
- (II) Whether the United States Court of Appeals, committed plain error by not addressing the written memorarilization set forth in 18 U.S.C. § 3553(c)(2)? Failing to address an enhancement of 18 Months, without any explaination. Id. At 18 U.S.C. § 3553(c)(2)?.
- (III) The United States Court of Appeals, and U.S. District Court did not took into account, § 3553(a), the nature and circumstances of the offense and the history and characteristics of defendant, § 3553(a)(1)?.

## 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:

UNITED STATES OF AMERICA  
Plaintiff-Appellee,

v.

RECORD NO. 18-6846

MARCOS LOPEZ-GUZMAN,  
Defendant-Appellant,

Pro Se Appellant, certifies that the following listed persons have an interest in this case. These representations are made in order that the Judges of this Court may evaluate possible disqualifications or recusal.

- 1- Assistant United States Attorney, Mr. ETHAN ONTJES
- 2- Attorney for the Defendant Mr. JAMES MARTIN Asst. (FDP)
- 3- United States Attorney, GEORGE E.B. HOLDING (U.S.A.)
- 4- Assistant United States Attorney RUDOLF A. RENFER, Jr. (AUSA)
- 5- Attorney, Mr. ETEPHEN C. GORDON, Asst. (FPD)
- 6- Assistant United States Attorney, ANNE M. HAYES, (AUSA)
- 7- (FPD) ROBERT E. WATERS, Federal Public Defender,

### COURT OF APPEALS

- 8- Honorable, WILKINSON,
- 9- Honorable, HARRIS,
- 10- Honorable, SHEDD, Senior Circuit Judge,
- 11- MARCOS LOPEZ-GUZMAN, Appellant Pro Se,

MARCOS LOPEZ GUZMAN Reg No. 50643-056

## TABLE OF CONTENTS

|  |   |
|--|---|
| OPINIONS BELOW .....                                   | 1 |
| JURISDICTION.....                                      |   |
| CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED ..... |   |
| STATEMENT OF THE CASE .....                            |   |
| REASONS FOR GRANTING THE WRIT .....                    |   |
| CONCLUSION.....  |   |

## INDEX TO APPENDICES

|            |  |
|------------|--|
| APPENDIX A | APPELLANT'S BRIEF (attached).                                      |
| APPENDIX B | UNITED STATES COURT OF APPEALS DECISION, Per Curiam<br>(attached). |
| APPENDIX C | OPINION OF THE UNITED STATES DISTRICT COURT<br>(attached).         |
| APPENDIX D |  |
| APPENDIX E |  |
| APPENDIX F |  |

## TABLE OF AUTHORITIES CITED

| CASES   | PAGE NUMBER |
|---|-------------|
| Haines v. Kerner, 404 U.S. 519 (1972).....i   |             |
| Tannenbaum v. United States, 148 F.3d 1262, 1263, (1998)....i                               |             |
| Freeman v. United States, 564 U.S. 522, (2011).....2  |             |
| United States v. Thompson, 714 F.3d 946, 949, (2013).....3                                  |             |
| Dillon v. United States, 560 U.S. 817, 826, 130, S.Ct. 2583, 177, L.Ed 2d 271, (2010).....3 |             |
| United States . Rivera-Niebla, 2014 WL 1623260 *3 (DC 2014).5                               |             |
| United States v. Ramirez-Ramirez, 365 F. Supp. 2d 728, 733, (E.D. Va. 2005).....5           |             |
| United States v. Zapata-Trevino, 378 F. Supp. 2d 1321, 1328, (D.N.M. 2005).....5            |             |
| Knupfer v. Lindblade (in re Dyer) 322 F.3d 1178, 1194, (C.A. 9. 2003).....5                 |             |
| Fraise v. United States Terhune, 283 F.3d 506, 522 (CA 2002)5                               |             |
| Planned Parenthood v. Casey, 112 S.Ct. 2791, 2804-05 (1992).5                               |             |
| STATUTES AND RULES  |             |
| 18 U.S.C. § 3582(c)(2)  |             |
| 18 U.S.C. § 3553(a)   |             |
| 8 U.S.C. § 1227(a)(2)(A)(iii)   |             |
| 8 U.S.C. § 1229(a)(3)(b), (b)(1)(C)   |             |
| 8 U.S.C. § 1143(a)(43)(f)   |             |
| 18 U.S.C. § 16,   |             |
| 21 U.S.C. § 846, 841(b)(1)(C)   |             |
| U.S.S.G. 2D1.1(c)   |             |
| U.S.S.G. § 1B1.10(b)(1)   |             |
| U.S.S.G. § 1B1.10(b)(2)(A)(c)   |             |

## OTHER

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

A. Title 18 U.S.C. § 3553(a). United States District Judge [Chief] James C. Dever, Went on saying: Having reviewed the entire record and all relevant policy statements, the court finds that Lopez-Guzman, received the sentence that was "sufficient, but not greater than necessary" under 18 U.S.C. § 3553(a). He went on: Further reducing Lopez-Guzman's sentence would threaten public safety in light of his serious criminal history conduct. Honorable, Judge Dever, never took into account Appellant Post-Sentencing, and Rehabilitation efforts. Judge DEVER, never took into account § 3553(a) factors when it comes to an Alien that is deportable is [not] to be released back into the community. Pending deportation, the deportable alien must be released to the custody of the Attorney General. And the public is not in any danger, because appellant, will be removed to his Home-Country. Therefore Honorable, DEVER, FAILED AS A JUDGE TO DELIVER JUSTICE, 'cause Lopez-Guzman, was sentenced to 246 months, converted is 20 years and Six months imprisonment. Judge, DEVER, did took into account § 3553(a) factors.

The United States Court of Appeals (did not even review the record) Appellant submitted his brief of appeals on August 29, 2018, and the United State Court of appeals, responded only (8) days later. See, appendix (B) attached as Exhibit to the Court.

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**

**[X] For cases from federal courts:**

The opinion of the United States court of appeals appears at Appendix (B) to the petition and is Affirmed

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 September 6, 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

### A. Statement of Facts.

On February 5, 2007, Pursuant to a written plea agreement and a waiver of indictment, Appellant Lopez-Guzman, pleaded guilty to one count of conspiracy to distribute more than 500 grams, of cocaine powder and possession of a firearm in furtherance of a drug trafficking crime. Exhibit (DE)#10-12. According to the presentence Report prepared by the United States Probation Office, Appellant Guzman, was responsible for a quantity of cocaine powder and marijuana sufficient to support a **Base Offense Level** of 34. After applicable adjustment, Appellant Lopez-Guzman's total offense level was 33, which combined with a Criminal History Category of III yielded a Guideline Sentencing Range of 168-210 month's imprisonment for the drug offense. On June 20, 2007, the United States District Court sentenced, Appellant Lopez-Guzman to 186 months imprisonment for the drug offense, and 60 months imprisonment, consecutive, on the firearm offense. DE#: 17-19. The Court did not impose a fine, but Appellant, was still subject to the \$200 Special Assessment.

(II) On November 1, 2014 Amendment 782 to the U.S. Sentencing Guidelines was enacted, which reduces by two levels the offense levels assigned to most drug quantities under U.S.S.G. § 2D1.1(c). The Probation Office issue a resentencing report indicating that Mr. Lopez-Guzman is eligible for relief under Amendment 782. The Probation Office also indicated that a comparable sentence under the New Guideline Sentencing Range after Amendment 782 would be 149 months imprisonment on the drug offense...A 37 month reduction from the U.S. District Court's prior Sentence.

## REASONS FOR GRANTING THE PETITION

- (1) According to Lexis-Nexis @ CD almost 48,500 Petitions were [G]ranted under § 3582(c)(2) and Amendment 782 and made retroactive under Amendment 788, which became effective November 1, 2014.
- (2) Appellant Lopez-Guzman, will be removed to his Home Country of Mexico. So the public is [Not] in danger.
- (3) Appellant has been advised not to return to the United States, unless he received permission from the United States Attorney General, and therefore not to pose any threat or danger to the public.
- (4) The cost of taxpayers to imprisonment Appellant is approximately \$32,000.00 annually. See, Mem. From Administration Office of the U.S. Cts. Cost of Community Supervision, Detention and Imprisonment, June 24, 2016.
- (5) Appellant respectfully requests that this Honorable Court take into account his Post-Rehabilitation efforts during the past 11 years of imprisonment, he has taken positive steps and completed his G.E.D. and several Courses towards his rehabilitation, including Drug- and Alcohol Programs.

## **CONCLUSION**

The petition for a writ of certiorari should be granted. Petitioner Pray's that this Honorable Court issue its Great Writ of Certiorary, and grants his humble petition.

Respectfully submitted,

  
\_\_\_\_\_  
MARCOS LOPEZ-GUZMAN

Date: October 04, 2018

# APPENDIX

# A

$\mathcal{E}$