

18-9291

No. _____

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U.S. DISTRICT COURT
MIDDLE DIST. OF GEORGIA
Macon, Georgia

IN THE

SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED
APR 16 2019
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ADRIAN GREEN — PETITIONER
(Your Name)

VS.

UNITED STATES OF AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEAL FOR THE ELEVENTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Adrian Green
(Your Name)

P.O. Box 5000
(Address)

Oakdale, LA. 71463
(City, State, Zip Code)

N/A
(Phone Number)

ORIGINAL

QUESTION(S) PRESENTED

- 1) Was defense counsel ineffective or deficient in their representation of the defendant?
- 2) Whether the district court committed reversible plain error in the application of sentencing defendant to 170 months to run consecutive to his prior 60 month sentence?
- 3) Whether the defendant could have known the "certainty" of the consequences of the ambiguous plea agreement in which he was lead into through defense counsel?
- 4) Whether the district court committed reversible plain error in the application and sentencing the defendant as a career offender and enhancing his criminal history category from III to VI?
- 5) Whether the district court committed reversible plain error in use of defendant's prior convictions to enhance and to establish him as a career offender?

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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TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

United States v. Moriarty, 429 F.3d 1012, 1023 (11th Cir 2005)

United States v. Johnson, 451 F.3d 1239, 1243 (11th Cir 2006)

United States v. Booker, 543 US 220, 160 L Ed 2d 621, 125 S.Ct. 738

STATUTES AND RULES

U.S.S.G. § 5 G 1.3

18 U.S.C. § 3584

21 U.S.C. § 841(a)(1)

21 U.S.C. § 841(b)(1)(A)(viii)

21 U.S.C. § 841(b)(1)(c)

U.S.S.G. § 4 B1.1

U.S.S.G. § 3 B1.1

18 U.S.C. § 3553

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 18-11881-DD; 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 B to the petition and is

☒ reported at 5:17-CR-00057-MTT-CHW-1; 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 _____.

☒ 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

18 U.S.C. § 3584

21 U.S.C. § 841(a)(1)

21 U.S.C. § 841(b)(1)(A)(iii)

21 U.S.C. § 841(b)(1)(c)

21 U.S.C. § 841(b)(1)(D)

21 U.S.C. § 846

28 U.S.C. § 1291

18 U.S.C. § 3553

STATEMENT OF THE CASE

On October 11, 2017, agents assigned to the Oconee Drug Task Force obtained and executed a search warrant for Appellant's residence located at 69 Liberty Street in Hawkinsville, Georgia. Doc 32-Page 4. When agents entered the residence to execute the warrant, Appellant was found and briefly detained. Id. After a search of the residence, agents found 493.5 grams of Methamphetamine and 3.6 ounces of Marijuana was found. Id at 5.

REASONS FOR GRANTING THE PETITION

The purpose for granting Petitioner's is as follows:

Appellant asserts that his 170-month sentence to run consecutive to his prior 60-month sentence constitutes cruel and unusual punishment in violation of Eighth Amendment to the United States Constitution. The combined application of the career offender classification pursuant to USSG § 4B1.1 in calculation Appellant's offense level and criminal history category, together with the decision to run his consecutive to any prior undischarged imprisonment pursuant to USSG § 5G1.3(d), has resulted in cruel and unusual punishment disproportionate to the offense committed. The Appellant is excessively penalized for his criminal history. While the general application of the recidivist penalty, USSG § 4B1.1 in the instant case, meets a public interest and is thus not cruel and unusual itself, it becomes cruel and unusual when further enhanced by another statute for the same public interest. The Appellant is effectively punished more than once for the same reason, which results in a grossly disproportionate sentence to the offense committed.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Adrian Green

Date: 4-5-2019