

No. 18-9842

Supreme Court, U.S.

FILED

MAR 04 2019

OFFICE OF THE CLERK

IN THE  
SUPREME COURT OF THE UNITED STATES

Alpidio Gonzalez — PETITIONER  
(Your Name)

vs.

United States — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals of the Fifth Circuit  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Alpidio Gonzalez  
(Your Name)

P.O. Box 4200  
(Address)

Three Rivers, TX. 78071  
(City, State, Zip Code)

(Phone Number)

**ORIGINAL**

QUESTIONS PRESENTED

1. How can a person show that a Writ of Habeas Corpus 2241 is the proper way to demonstrate he is entitled relief when the lower courts Deny a motion, without going to its merits, or how can a petition get through the 2255 saving clause, when everything is inadequate or inefficient, and still the courts say that I did not demonstrate I can pass the saving clause issue, when I have demonstrated I can use the saving clause of the 2255 to challenge validity of the sentence enhancement in my case. I have gone through every issue to demonstrate I am entitled for the savings clause.
2. Having preserved the issue of the prior conviction in which I was enhanced (Texas Prior Conviction for Delivery of Marijuana of 1989) at sentencing, direct appeal and 2255 long before Mathis v. United States 136 S.ct.2243 and Descamps v. United States 133 S.ct. 2276 were ever ruled on, make this case an issue preserved for this Honorable court to review for error?

## 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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## 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

[X] reported at 747F.ed appx 244; 2019U.S.app.nex.704 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[ ] is unpublished.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**

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

The date on which the United States Court of Appeals decided my case was 01-08-2019.

[ ] 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: NA, 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 NA (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 \_\_\_\_\_.  
  

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[ ] 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 PROVISION INVOLVED

U.S.S.G. 4B1.1

## **STATEMENT OF THE CASE**

Alpidio Gonzalez, Reg.No:06089-078, was convicted by a jury of possession with intent to distribute 100 kilograms or more of marijuana and was sentenced to 360 months of imprisonment and eight years of supervised release. He appeals the district court's dismissal of his U.S.C. § 2241 petition in which he argued that his prior conviction for Texas delivery of marijuana no longer qualified as a predicate offense under U.S.S.G. § 4B1.1 and as a result, he should no longer be considered a career offender.

REASONS FOR GRANTING THE PETITION

Petition should be granted for the reasons that I have preserved this issue of the prior conviction enhancement in all proceedings ever since sentencing, direct appeal and initial 2255.

## **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Alpidio Gonzalez  
  
Date: May 05, 2019