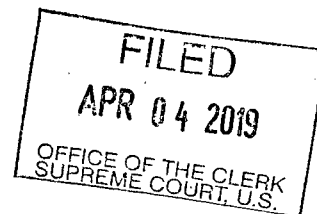


No. 19 - 5406

ORIGINAL



IN THE
SUPREME COURT OF THE UNITED STATES

Ronald Lee Coleman — PETITIONER
(Your Name)

vs.

United States of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Sixth Circuit Court of Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

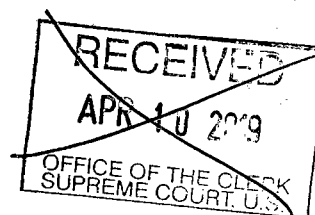
PETITION FOR WRIT OF CERTIORARI

Ronald Lee Coleman
(Your Name)

P.O. Box 10
(Address)

Lisbon, OH 44432
(City, State, Zip Code)

(Phone Number)



QUESTION(S) PRESENTED

Whether the District Court erred in failing to address Petitioner's constitutional claim.

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

- ☐ 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☒ is unpublished.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 B 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☒ is unpublished.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☐ is unpublished.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☐ is unpublished.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: January 4, 2019, and a copy of the order denying rehearing appears at Appendix C.

☐ 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. § 924(c)(1)(A)

28 U.S.C. § 2255

Fifth Amendment of the United States Constitution

U.S.S.G. § 4B1.2(b)

STATEMENT OF THE CASE

Petitioner sought a Certificate of Appealability on whether the District Court abused its discretion in failing to rule on Petitioner's claim that his sentence was in violation of due process since his predicate offense under 18 U.S.C. § 924(C)(1)(A) is not categorically a controlled substance offense under § 4B1.2(b), and also failing to again address the same claim in Coleman's Rule 59(e) motion. The Sixth Circuit held that reasonable jurists would not debate the district court's ruling that Beckles forecloses Coleman's argument that his prior § 924(c) conviction no longer qualifies as a crime of violence in light of Johnson. First of all, Petitioner is challenging his prior conviction under § 924(C)(1)(A) as not categorically being a controlled substance offense under § 4B1.2(b), which has nothing to do with Johnson because it is not based on a crime of violence. Coleman's § 2255 motion was timely, so in his Supplemental Brief he raised this additional claim. Petitioner argued in his Supplemental Brief that his prior conviction for violation of § 924(c) is not a controlled substance offense, and this argument is not affected by Beckles. (See ECF No. 202, PageID.1724) This separate claim should have been adjudicated based on the analysis of Mathis and the categorical approach, not Beckles.

REASONS FOR GRANTING THE PETITION

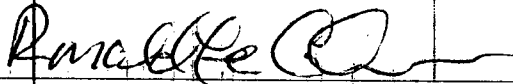
Mr. Coleman contends he has raised a sufficient debatable constitutional claim, but the District Court did not address Coleman's claim which was a violation of Mr. Coleman's Fifth Amendment. A claim for relief is "any allegation of a constitutional violation." Clisby v. Jones, 960 F.2d 925 (11th Cir. 1992)(en banc). There is a difference in rules in other circuits regarding the proper procedure when a claim is not heard by a district court. The Sixth Circuit does not have a rule, but the Eleventh Circuit has held that "when a district court fails to address all claims in a motion to vacate, we will vacate the district court's judgment without prejudice and remand the case for consideration of all remaining claims." *Id.* at 938. Thus Petitioner contends that it is important for this Court to establish a rule or standard for courts to follow in the event that district courts do not address potentially meritorious constitutional claims.

Petitioner prays this Motion is well-taken.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

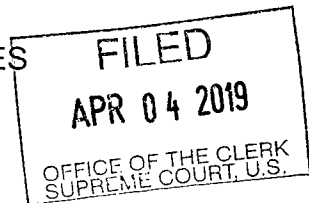


Date: 4-3-2019

No. **19-5406**

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



Ronald Lee Coleman — PETITIONER
(Your Name)

VS.

United States of America — RESPONDENT(S)

PROOF OF SERVICE

I, Ronald Lee Coleman, do swear or declare that on this date, April, 2019, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Solicitor General of the United States, Room 5614, Department of Justice, 950
Pennsylvania Ave., N.W., Washington, DC 20530-0001.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 4, 2019

Ronald Lee Coleman
(Signature)