

19-7798

No. _____

Supreme Court, U.S.
FILED

FEB 20 2020

OFFICE OF THE CLERK

January Term 2020

IN THE

SUPREME COURT OF THE UNITED STATES

PABLO CANTA HERNANDEZ — PETITIONER
(Your Name)

vs.

UNITED STATES of AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

PABLO CANTA HERNANDEZ
56212. 177
(Your Name)

Federal Medical Center P.O. Box 15330
(Address)

FORT WORTH, TX 76119
(City, State, Zip Code)

N/A
(Phone Number)

ORIGINAL

QUESTION(S) PRESENTED

WHETHER PETITIONER IS ELIGIBLE FOR THE
SAFETY VALVE UNDER EXTRAORDINARY AND
COMPELLING CIRCUMSTANCES THAT WERE
EXPANDED UNDER THE FIRST STEP ACT
OF 2018.

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:

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

PEPPER V. UNITED STATES, 179 L. Ed. 2d 196, 212
(2010).

STATUTES AND RULES

U.S.S.G. § 2D1.1(c)
U.S.S.G. § 5C1.2
18 U.S.C. § 3582(c)(2)
18 U.S.C. § 3553
18 U.S.C. § 3231

OTHER

THE FIRST STEP ACT of 2018 ("the act")
S-756, P.L. 115.

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APPENDIX A	<i>COPY OF THE U.S. COURT OF APPEALS FOR THE FIFTH CIRCUIT NO. 19-10907, PER CURIAM, DISMISSED ON 12-16-2019</i>
APPENDIX B	<i>COPY OF THE U.S. DISTRICT COURT ORDER DENYING THE 18 USC SECTION 3582(C)(2), ON <u>06-17-2019</u>, CASE NO. 17-CR-42- NORTHERN DISTRICT OF TEXAS, SAN ANGELO DIVISION.</i>
APPENDIX C	<i>U.S. DISTRICT COURT N.D. OF TEXAS DENIAL OF RECONSIDERATION dated 07-17-2019</i>
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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☒ is unpublished.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☒ is unpublished.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 December 16, 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: _____, 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

FIFTH AMENDMENT TO THE UNITED STATES
CONSTITUTION AND
SIXTH AMENDMENT TO THE UNITED STATES
CONSTITUTION, DUE PROCESS

STATEMENT OF THE CASE

ON 4/26/2016, Petitioner was charged by Indictment with Possession W.I.D., 500 grams or more of Methamphetamine, Vio; 21 USC § 841(b)(1)(A) VIII. IN 2017, Petitioner pled guilty to the Indictment. ON 2-16-2018, Petitioner was sentenced to 235 months of Imprisonment.

ON 5-24-2019, Petitioner filed a Motion to Reduce Sentence Pursuant to 18 U.S.C. § 3582 (c)(2) First Step Act, seeking the application of the safety valve.

ON _____ The U.S. District Court Northern District of Texas, San Angelo Division, denied said Motion.

ON July 2019 Petitioner objected to the Court order

ON 07-17-2019 The District Court considered Petitioner's objections to the Court's order and denied

REASONS FOR GRANTING THE PETITION

Petitioner seeking review of his Motion under 18 USC § 3582(c)(2), addressing whether or not he is eligible for the application of the expanded safety valve under the First Step Act of 2018, under Extraordinary and Compelling Circumstances, and whether the Fifth Circuit abused its discretion when denying Petitioner review of his issue.

Petitioner prays that this Court issue a Writ of Certiorari to address this question.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Pablo Henao

Date: 02/19/2020