

No. 19-7869

ORIGINAL

Supreme Court, U.S.
FILED

JAN 27 2020

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Raymond David Wilson — PETITIONER
(Your Name)

vs.

Noel J. Francisco — RESPONDENT(S)
United States Court of Appeals for the Fourth Circuit
ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

Raymond David Wilson 12582-171
(Your Name)

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QUESTION(S) PRESENTED

WHY DID THE DISTRICT COURT ERRONEOUSLY CLASSIFIED MR. WILSON AS A CAREER OFFENDER WHEN IN FACT BOTH PRIORS HAPPENED IN THE SAME COMMON SCHEME, AND THOSE PRIORS SHOULD HAVE BEEN USE AS A SINGLE SENTENCE, BECAUSE THERE WAS NO SEPARATED BY AN INTERVENING ARREST.

ALSO WAS THE DISTRICT COURT WRONG FOR LETTING MR. WILSON MISPRISON OF A FELONY BE USE FOR THE CAREER OFFENDER PURPOSE WHEN IN FACT MISPRISON OF A FELONY IS SIMPLE NEGLECT CHARGE...

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:

RELATED CASES

JAMEAL GOULD VS UNITED STATES 583 Fed Appx 95;
APPLexis 17128 N.O. 13-7339

ZAVIER MARQUIS DAVIS VS. UNITED STATES 720 F.3d 215;
App. Lexis 12893 No. 12-4346

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TABLE OF AUTHORITIES CITED

CASES

		PAGE NUMBER
FLORENCIO ROSALES - MIRELES	138 S.Ct 1897 201 L.Ed 376	(6)
BECKLES	137 S.Ct 886 197 L.Ed 2d 145	(4)
FREDDIE J. BOOKER	543 U.S. 220 S.Ct 738; 160	(5)
SAUL MOLINA - MARTINEZ	App Lexis 9876 136 S.Ct 1338 194 L.Ed 2d 441 (4)	
UNITED STATES VS OLANO	507 U.S. 725 113 S.Ct 1770, 123 L.Ed 2d 508 (4-5)	

STATUTES AND RULES

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 190 to the petition and is 176 Fed.

[] reported at App Lexis 26679 No: 186988; 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[] is unpublished.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 263 to the petition and is 210 Fed.

[] reported at Lexis 31344 2:05-cv-00279-DCN-1 2:14-cv-02467; 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 Sept 4, 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 Dec 1, 2020 (date) on Dec 12, 2019 (date) in Application No. 19A655.

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
Guidelines Related ERROR

STATEMENT OF THE CASE

Due to the following facts I was denied by the District Court due to the ruling by this court in (Beckles) — but (Beckles) — should have never apply to me or my claims because I should have never been deemed a career offender because my priors that was used misprison of a felony is not a violent felony. It's a simple neglect charge. Also they were no intervening arrest with the two priors that was used. On the above date of Dec 16, 1998 in Charleston S.C. State Court I plead guilty to a misprison of felony that happened on July 31, 1997 and a strong armed robbery that happened on Aug 1, 1997, and these cases were ran concurrent in state court. Now the District Court my lawyer Robert Hailey the government Alston A Badger and the probation officer made a plain error, and that alone is significantly what this court would call clearly erroneous, plus it was a procedural error. So I contend that because of this miscalculation the court applied a overly high advisory sentencing range because of the career status. I also strived to seek to appeal the district court order denying relief on this USC 2255 motion with a certificate of appealability 28 USC 2253 (c) (1) (B) but the court of appeals for the fourth circuit felt that my claims has not made the requisite showing so that motion for a certificate of appealability was deny and dismiss. This honorable court ruled on (Molina - Martinez) and addresses how multiple sentences imposed on the same day are to be counted as a single sentence unless the offenses were separated by an intervening arrest the defendant is arrested for the first offense prior to committing the second offense 41.2 (A) (2) also in (Molina - Martinez) this honorable court said to reviewing guidelines errors it's rationale or judicial precedents supported a requirement that a defendant seeking appellate review of an unreserved USSG (guidelines error) make some of prejudice beyond the fact that the erroneous, and higher guidelines range set the wrong framework. Okay I was given three extra points in my criminal history. When I should have only gotten 3 points for the strong armed robbery and nothing for the misprison of a felony because they were in the same common scheme. The misprison of a felony happened on July 31, 1997 and the strong armed robbery happened the very next day on Aug 1, 1997. Now the district court had many of times to correct this error because I am not trying to attack the united states sentence guidelines. I am only trying to correct what my lawyer the government the district court and the probation officer failed to correct, even the appeals court for the fourth circuit could have seen this error but they put my case in abeyance. But the fourth circuit appeals court could have used the federal rule of criminal procedure 52 (b) this honorable mighty court said in united states v. Olano there must be three conditions established before a court may consider exercising it's

STATEMENT OF THE CASE

discretion to correct the wrong. The error was not intentionally relinquished or abandoned. The error is plain and the error affected the defendants substantial rights, and under the fourth prong just because there was no intervening arrest with those two priors I should have never been deemed a career offender plus the same court frequently used a misprision of a felony that never been use before to career someone out. So the district court abuse it's certainty and fairness and didn't operate within the framework established by congress see United States v. Booker, 543 U.S. 220, 264 F.3d 736 (D.C. Cir. 2003). Last but not least my P.S.I. needs to be corrected. Thank you...

REASONS FOR GRANTING THE PETITION

Due to the fundamental defect that resulted to a miscarriage of justice I was erroneous designation as a career offender. By this honorable court granting the petition it will help others who have these same problems, because this honorable court and the beautiful chief justice soto mayor stated in rosales-mireles a failure to correct plain U.S.S.G error that affected a defendant right would seriously affect the fairness integrity and public reputation of judicial proceedings and thus will warrant relief. So when the district court, the lawyer, the government and the probation office fail to investigate and these sentence exposure are found later down the road after the direct appeals the 2255 or the 2241 the petitioner can still correct a miscalculation in his criminal history points. So cases like mines don't have to worry about (Beckles) or being time barred when it's a retroactive statute and can easily be reverse. Like a res judicata or a collateral estoppel. Defendants who don't understand law and they priors are being used and those priors do not meet the proper criteria can channel a motion that can help them. Like United States vs Kissick 69 F.3d 1048 10th Cir when the defense counsel failed to challenge the use of a prior conviction to classify the defendant as a career offender. Also if this court grant this petition it can show district courts that when they let the government the probation officer or a ineffective lawyer fraudently use a prior that's of know legal force and effect.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Raymond David Wilson

Date: 1-27-2020