

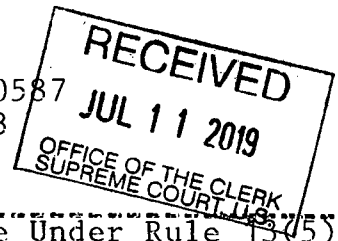
Todd A. Guier
(Petitioner)

6-28-2019

D.C. No 4:18-CV-00587

C.O.A. No. 18-3203

v.
United States Of America
(Respondant)



Request For Appointment Of Counsel And Or Extension Of Time Under Rule 13(5)

Petitioner Pro-Se Todd A. Guier is requesting appointment of counsel and or extension for good cause not to exceed 60 days due to extraordinary and exceptional circumstances.

Background

On March 6, 2017 The District Court for the Western District Of Missouri sentenced Guier to 140 months in violation of 21 U.S.C. 841(a)(1),(b)(1)(b) and 846 and felon in possession of a firearm in violation of 18 U.S.C. 922(g)(1) and 924(a)(2). Guier Appealed the sentence and a panel dismissed the appeal United States v. Guier 17-1587 (8th Cir July 17, 2017), On July 30, 2018 Guier filed a motion under 28 U.S.C. 2255, Guier's arguments were (1) Counsel was ineffective (2) Guier's sentence was procedurally and substantively unreasonable (3) Counsel was pending suspension and actually suspended from practicing law by Kansas and Missouri (4) The court misstated facts when applying upward variance of 8-levels. The court denied the petition in less than 60 days in August of 2018. Guier sought a certificate of appealability which was denied Guier v. United States No. 18-3203 (8th Cir) (Feb 21 2019). Guier's petition for a rehearing en banc was denied April 9, 2019. Guier also has pending a second or successive 2255 in the 8th Circuit Court Of Appeals No. 19-1884. See Exhibits

Discussion

The Supreme Court is held to have jurisdiction to review a Federal Court of Appeals denial of certificate of appealability under 28 U.S.C. 2255 See Horn v. United States 524 U.S. 236 (1998)

In United States v. Hicks 669 Fed. Appx. 213 (5th Cir COA 2016) The appellate counsel failed to advise in writing that he could seek certiorari as required under the CJA plan for representation on appeal. Likewise Guier's failed to provide him with a written notice.

Jurisdiction

This court has jurisdiction under 28 U.S.C. 1291 and 28 U.S.C. 1254

Pauper Status

Guier applied for pauper status when he failed his 28 U.S.C. 2255 motion therefore he should be allowed pauper status and appointment of counsel.

Constitutional Issues

- (1) Effective Assistance Of Counsel-Sixth Amendment
- (2) Due Process Clause - Fifth Amendment
- (3) Equal Protection -Fourteenth Amendment
- (4) Cruel and Unusaul Punishment- Eight Amendment

Conclusion

Guier's Attorney Kenton M. Hall failed to notify his client, the court, and prosecutor of his pending and suspended status, his preformance was deficient and his conduct violated the ABA"Statement of Client's Right's" Guier should be appointment counsel and certiorari Granted and or remanded and or Grant a extension of 60 days to prepare his petition for certiorari.

*Everything stated is true and correct to the best of my knowledge and is made under the penalty of perjury and U.S.C. 1746

Repectfully Submitted,

Todd Guier 31295-045

Todd A. Guier #31295-045
Federal Correctional Institution
F.C.I. Forrest City-Low
P.O. Box 9000
Forrest City, AR. 72336

Certificate Of Service

A copy has been sent by Regular U.S. Mail to the U.S. Attorney's Office to the address below this day 6-26-2019
U.S. Attorney's Office
400 E. 9th Room 5510
Kansas City, Mo. 64106