No. 20-5323

SUPREME COURT OF THE UNITED STATES

Alfred Domenick Wright,

Petitioner

vs.

United States of America,

Respondent.

On Petition for a *Writ of Certiorari* to
the United States Court of Appeals
for the Fourth Circuit

PETITION FOR A *WRIT OF CERTIORARI*

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Questions for Review

1.) Should the Government correct error committed when applying 'The Fair Sentencing Act' (Nov. 2014)? And if an applicant's reduction for Substantial Assistance was removed in error by the Government (who did not follow Statute §1B1.10.10 instructions), should the applicant be able to apply the removed substantial assistance to a potential future conviction (Sibron v. New York (1968)?

2.) If the assistance of counsel and/or arresting officer are found to have criminal convictions post the appellant's plea of guilty, should there be merit to overturn a previous decision?

3.) How can United States v. Gall (2007) be used as justification for error in applying 'The Fair Sentencing Act' (Nov. 2014). When United States v. Gall is an at sentencing decision and 'The Fair Sentencing Act' has instructions to follow under Statute §1B1.10?

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Alfred Domenick Wright #15710171, an inmate currently incarcerated at USP Hazelton (US Penitentiary) P.O. 2000 in Bruceton Mills, WV 26525, is filing *pro se*, and respectfully petitions this Court to review the judgement of the Fourth Circuit Court of Appeals.

I. Opinions Below

The decision by the Fourth direct appeal is reported as United States v. Wright (2018, 4th circuit, No. 18-4285).

II. Jurisdiction

Mr. Wright's Petition to the Fourth Circuit Court of Appeals was denied on July 30th, 2019. Wright was informed of this around September of 2019 and given the instruction as to how to file a *Writ of Certiorari* later in October of 2019. Mr. Wright now invokes the Court's jurisdiction under 28 U.S.C. § 1254(1), having timely filed this Petition for a *Writ of Certiorari* within ninety days of the Fourth Circuit Court of Appeal's judgement. May it please be noted that Mr. Wright was granted a sixty-day extension October 26th, 2019, then again December 19th, 2019, then again March 3rd, 2020. Due to mailing issues (and not due to any fault of Appellant) and editing errors, W*rit of Certiorari* is timely filed. (The court then granted another sixty day extension on July 9th, 2020).

III. Statement of the Case

The facts are on February 12th, 2012, the Appellant was granted a four-level reduction for a Rule 35(b) for substantial assistance to the Government. However, around November 2014, the Government erred and did not include this four-level reduction, even though Statute §1B1.10 in clause section (C) tells the Government not only to include, but how to include this reduction. This was due to no fault by the Appellant. Sibron v. New York (1968) states claims of such a nature are not moot and can be applied to a potential future conviction. ~~lease is completed~~ release is completed and this can be applied to a potential future conviction. (1) The Appellant is currently serving a 'future conviction' (ca#3:17-1202) in the Federal Bureau of Prisons. United States v. Ketters (2017) states a sentence is not completed until the term of supervised release is completed. The Appellant's supervised release revocation from the sentence the four-level reduction for which Rule 35(b) was granted. The Appellant respectfully asks for this four-level reduction to be granted to his current sentence in the Federal Bureau of Prisons. United States v. Gall (2007) a Government error. (2) Also, some form of relief should be granted due in fact to the poor post-conviction-conduct of the Appellant's attorney Frank McMaster and the arresting officer, the former Sheriff Forrest Crider.

(1) The Appellant's current sentence is not completed until the term of supervised release is completed, and this can be applied to a potential future conviction

(2) United States v. GALL (2007) is a decision to allow a judge to consider going above or below the sentencing guidelines, it is not a decision on how to correct or over look a Government error.

3) Wright received a (4-) Level reduction pursuant to a Rule 35 (Fed R. Crim. P. 35 (b)) on February 2012.

4) District Attorney John David Rowell and the Honorable Judge Margaret B. Seymour requested and approved this (4-) Level reduction.

5) Wright gave substantial assistance, accredited by the Government, putting himself and Wright's loved ones at potential risk, to receive this (4) Level departure.

6) § 1B1.10 has specific clauses involving giving further sentence departures to sentences involving reductions due to substantial assistance. And this was not followed by the Government, at no fault of the Petitioner.

Again, this is not moot, because according to Sibron v. New York, 392 W. S. 40, 57, 88, S. C. 1889 L. Ed. 2d. 1917 (1968), a claim of this nature is not moot and can be given credit to a future conviction. The previous brief mentions the Government can grant or deny a pending request to reduce a sentence. But where is it written that the Government can remove a reduction already granted by the Court (at no fault from the Defendant)? And the Court must remember it is stated in § 1B1.10 section (c) involving 'sentences with substantial assistance reductions', how Wright's sentence was to be reduced under the amended guidelines from 'FSA', following the Government's statutes (§ 1B1.10). The Government committed reversible error, and Wright's (4) Level reduction should, at the very least be applicable to a future conviction (Sibron v. New York) because it is now clear that the Petitioner has been over-sentenced at no fault of his own, but due to the Government's calculating error by not following § 1B1.10.

iii. **Appellant Asserts he was denied the Effective Assistance of Counsel when he entered a guilty plea on November 27, 2007.**

As mentioned previously, Wright's claim of inefficient counsel is so fervent that it is a potential 'Gideon v. Wainwright' claim. Wright does not know the law, and has documented mental health issues (bi-polar, manic depressive, anxiety disorder, PTSD (Post traumatic stress disorder), schizophrenia, and an over-active brain). Yet, presented to his attorney, Frank McMaster multiple facts and aspects of the events that, in fact, transpired on the June 7, 2004 and January 13, 2005 incidents, that became Count 1) and Count 4). Wright's presenting of this should have immediately created interest with McMaster because it differed from documents given to the Government (and these documents took three-years-plus to be given to the Department of Justice. Going from Gaston Police Department to South Carolina Law Enforcement Division (SLED) then to the Drug Enforcement Agency (DEA), though Wright was never allowed to see these details (let alone, Wright's Pre-sentencing report (PSI/PSR), which also had SEVERAL errors such as claiming that Wright did not graduate from High School. The PSR also claimed that Wright had a detainer for simple possession/Marijuana (when the fine had been paid and served in Richland County Court of South Carolina almost four years prior to that time). Wright had to prove that he had a diploma and no pending detainers while he was at FCI Ashland, KY, presenting proof to case manager Mrs. Seamond. This alone easily and most clearly validates Wright's claim of ineffective counsel. Wright had to mention to the Court (in open Court) that Wright's prior convictions were, in fact, after the instant offense. Wright was Federally indicted on August 22, 2007 for a June 7, 2004 and a January 13, 2005 incident. But the Prosecution led by District Attorney John David Rowell, originally on September 24, 2007 filed to increase Wright's penalties under 21 U.S.C. § 851. After Wright pointed out in open Court that the instant offenses occurred months before the alleged prior conviction, which was March 24, 2004 in Richland County of South Carolina. The Government, led by District Attorney, then agreed not to pursue '851' penalties, because how could a conviction after the instant offense (occurred) ever be considered a 'prior conviction?' Again, Wright who is not law-school-trained and who suffers from documented mental health illnesses pointed this out in open Court, not the attorney McMaster. These factors should be enough to prove ineffective counsel, but when the fact that McMaster was charged and convicted of an illegal use involving a firearm should further validate a

claim of ineffective counsel. For, if an attorney knowingly committed a crime, then the attorney does not respect the law nor his (or her) client's best interests. And if an attorney did not know he was committing a crime, then this further proves that the attorney did not know the law, and clearly was ineffective counsel. Either way proves McMaster was ineffective counsel, and Wright had no way of knowing this at the time of Wright's plea or sentencing.

iv. The Appellant Asserts that since the arresting officer (of Count 1)) was disbanded from law enforcement and had his own criminal conviction, this the Appellant's claim of altered documents and illegal traffic stops and searches should hold merit.

In Count I, the arresting officer was Gaston (SC) Police Department Sheriff Forrest 'Woody' Crider. This Sheriff was disbanded in late 2008 after Wright's sentencing. Crider was involved in a criminal investigation years later. Crider made an illegal traffic stop on Wright's vehicle on June 7, 2004. At the initial stop, former Sheriff Crider told Wright that he was pulled over because a "reliable informant" claimed that Wright had a black bag with cocaine in the trunk. Yet, on different documents, there were other reasons listed for the traffic stop. One document claimed that Wright did not use his turn-signal. Another document claimed that Wright's turn-signal light was broken. Bother of these claims were false. It is also documented that Wright appeared nervous or agitated, when the fact is that Wright was taking his fiance' Kiona Wolfe (later to become Kiona Wright) to her first pre-natal appointment (son Nasir Arion Wright was born on February 7, 2005). Wright was told by Crider to pull over into an IGA grocery store parking lot at the initial stop. However, documents do not mention the "reliable informant" of the initial stop. There is no mention of Wright's passenger Kiona Wolfe (again, now Kiona Wright to this day) in any report.

Wright promptly informed former Sheriff Crider that Wright had his registered handgun locked in the vehicle's glove compartment box (a Glock model (21) 45 ACP). This is a key fact, because the cocaine discovered later in Wright's trunk was separated by lock and key from Wright's handgun, which means there was 'no Furtherance of a drug trafficking crime,' meaning that Wright was not guilty

of Count 1) (924(c)), and Wright only plead (not understanding the law nor shown the evidence against him) to the Count because Wright's attorney McMaster said that Wright was guilty (and Wright trusted and believed that McMaster was acting in Wright's best interest as his attorney). However, after reviewing documents, Sheriff Crider claimed that the handgun was not only in the black bag with the cocaine, but Crider documented the firearm as a '40-caliber-type-pistol with a banana clip' on some of the documents. This point was also brought up in open Court. Wright did not grant Crider permission to search the vehicle, but Crider's documents claim that Wright granted and/or signed permission so to do. Former Sheriff Crider called for a 'K-9' unit to allow a detecting dog attempt to find the narcotics suspected to be in the trunk. No drugs were found by the dog. There SHOULD be documentation with the Gaston Police Department that proves that a 'K-9 Unit was ordered to the IGA parking lot in Gaston SC on June 7, 2004. Yet, there is no mention of any drug-detecting dog.

Common sense would also dictate that Wright did not grant nor sign permission (thus any document signed would have been a forgery). If former Sheriff Crider already stated to Wright that Crider knew there was a black bag with cocaine in Wright's trunk and, if Wright were to have known of such a black bag with cocaine as being in the trunk especially AFTER the dog search had found nothing, why would Wright even grant permission to search the vehicle? As stated, a drug-detecting dog was ordered to the scene and the 'K- 9' unit dog did not indicate for narcotics.

Thereafter, an upset Crider then violated Wright's Constitutional rights and used Wright's vehicle keys to then open the trunk where he suddenly discovered a black bag containing cocaine. Crider confiscated Wright's money (approximately two-thousand dollars), giving Wright no documented receipt for the seized money. Wright's vehicle (which Crider later SOLD back to Wright through a Gaston Tow Yard for $500), Wright's Glock model (21) 45 ACP handgun, the suddenly found black bag of cocaine, Wright's cell (mobile) phone number, and Wright's South Carolina Driver's License were also seized. Former Sheriff Crider then told Wright that this was a 'field arrest' and told Wright and his fiance' to "find a way home." Wright never went to jail for this 'field arrest' incident until it became a Federal indictment (August 22, 2007, over three years after the incident occurred), and this is evident because there is no record of Wright being held in Lexington County Detention Center prior to September of

2007. After the 'field arrest,' Wright cooperated with Gaston Police Department, even involving a recent (as of summer, 2004) murder case (convicted killer was Crider's 'reliable informant') in which Wright helped find the whereabouts of the murder weapon in cooperation working with Law Enforcement. Yet, Wright received no benefits for his assistance. Also, the Court must please take into consideration that this documentation was held for over three years after the instant offense and was passed on from the Gaston Police Department to SLED and then to DEA. Former Sheriff Crider's disbandment, his own legal problems, and the checkered documents passed along from agency to agency should give credibility/merit to Wright's claim of Crider having altered and falsified important documents and reports. Consequently, some sort of remedy needs to and should be in order to rectify the state of things for the Appellant because Wright had no way to discover this information until shortly before filing Wright's formal appeal.

v. The Appellant Asserts that Wright's sentence was last modified on December 29, 2016, not October 30, 2014. Also, the Appellant's claim of reversible damage is not moot and holds merit.

This Appeal is three-and-a-half year's after FSA altered Wright's sentence on about November 4, 2014. However, Wright's conditions of Wright's sentence were modified on December 29, 2016. This date is (17) seventeen months before Wright's appeal was filed on May 2, 2018. Also, a valid point to consider for Wright's delay in filing is Wright's lack of the knowledge to file this appeal, being moved from different facilities, and that Wright was also incarcerated long-term in facilities with no legal library access available. The Petitioner also suffers from challenging mental and crippling physical health illnesses that have been diagnosed and documented by the facilities. A previous brief claims that since Wright has already served his sentence, that the issue is moot. However according to Sibron v. New York, 392 W.S. 40, 57, 88, S.C. 1889, 20 L. Ed. 2d. 917 (1968), a claim of this nature is not moot and can be given credit in a future conviction. All these factors need to be taken into consideration involving the Petitioner's appeal.

vi.–United States v. Gall is not a factor in this case because United States v. Gall was an at-Sentencing decision, where the problem in this case is the Government not following its own protocol and procedures when applying The Fair Sentencing Act on around November 4th, 2014, not heeding Statute § 1B1.10 's specific instructions under a clause in section (C) of the statute.

United States v. Gall is a sentencing decision, not an error made while giving a Fair Sentencing Act decision. The Government made Statute § 1B1.10 to decide how to apply the 18:1 ratio to potential applicants, and how to also determine these potential reductions with other factors. In the other potential factors in the Petitioner's situation is a Rule 35(b) reduction given to the Petitioner on February 12th of 2012. In Statute § 1B1.10 section (c), it states how to apply a reduction for cooperation along with the Fair Sentencing Act reduction (18:1 cocaine base disparity). The Petitioner's Fair Sentencing Act reduction was not done properly as Statute § 1B1.10 section (c) states, in which the Petitioner was to be given the four-Level reduction. This is a grievous error that can be reversed in a potential future conviction (Sibron v. New York), and is an absolute valid claim for relief because the Petitioner is still on supervised release. Thus, the Petitioner's sentence is not finished nor completed; (United States v. Ketter No. 17-4267); again, the Petitioner's claim is not moot and, in all humility, must be honored. United States v. Gall plays no factor in the Government not applying a reduction that the Petitioner already earned. United States v. Gall is a sentencing decision for a Judge's discretion at sentencing (giving Honored Judges the right to go above or below Guidelines like United States v. Booker), not a miscalculation on the Fair Sentencing Act decision, United States v. Gall places no merit in the Petitioner's case. The Petitioner asks for relief of the four-Level reduction in a potential conviction, as law states for which the Petitioner is obligated. Also included are the Guidelines from the Fair Sentencing Act and how to apply it to retroactive sentences. The Petitioner attaches the concluding Article insert from "Busted By the Feds" (15th edition) as further support to this document, placed as pages 12, 13, and 14, located after page 11's conclusion.