

20-6259  
NO. 20-6269

**IN THE SUPREME COURT OF THE UNITED STATES**

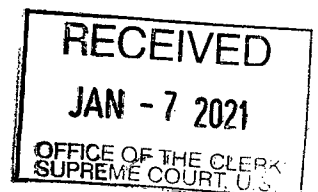
Angela de Jesus Concepcion,  
Petitioner,

V  
UNITED STATES OF AMERICA,  
Respondent.

On Petition for Writ of Certiorari to the United States  
Court of Appeals for the Third Circuit

**PETITION FOR REHEARING**

Petitioner angela de de Jesus Concepcion in Propria Persona  
Angela de Jesus  
662 Snake Den Road  
West Milford, New Jersey 07480



## **PETITION FOR REHEARING**

Pursuant to Supreme Court Rule 44.1 this petition for rehearing is filed within 25 days of this Court's decision in this case. Pursuant to Sup. Ct. R. 44.2 petitioner Angela de Jesus Concepcion ("petitioner" or "Ms de Jesus ") respectfully petitions this Court for an order (1) granting rehearing, (2) vacating the Court's December 7, 2020 order (3) and remanding to the Third Circuit for only consideration to an evidentiary hearing.

Supreme Court Rule 44.2 in pertinent part states that grounds for a petition for rehearing "shall be limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented." The Betterman's court in dicta wrote "We have never decided whether the Due Process Clause creates an entitlement to a reasonably prompt sentencing hearing. Today's opinion leaves us free to decide the proper analytical framework to analyze such claims if and when the issue is properly before us. (JUSTICE SOTOMAYOR). Petitioner's claim met the threshold in Betterman. Petitioner humbly presents that her case is part of a broader question that will affect other defendants in the context of assistance of counsel and undue delay in sentencing. Thus, she presents to the court that Justice will be served if once and for all the court answer the question or remand to the Third Circuit to consider whether the right to a prompt sentencing exists with the assistance of counsel and Due Process in accordance with the court's opinion in Betterman.

## **STATUTORY PROVISIONS INVOLVED**

This case involves 28 U.S.C. § 2255, the primary avenue for collateral review of federal judgments and the Federal Constitutional Provisions of the Fifth Amendment to the United States Constitution and the Sixth Amendment Right to an effective assistance of counsel.

Ms de Jesus is aware that this Honorable Court on the past has pointed out in dicta on, Betterman v. Montana No. 14-1457 that "whether the Due Process Clause creates an entitlement to a reasonably prompt sentencing hearing is an open question." This court has emphasized on the past that a defendant Due Process rights may be violated by oppressive delay in sentencing. The District court and the Court of Appeals disregarded this court's decision in Betterman. Petitioner's case presents an question of exceptional importance for other defendants. Petitioner prays the court to answer the open question of whether delay in sentencing and judgement violates Due Process and the assistance of counsel.

She recognizes that the court might have denied certiorari because the case was not properly presented so she is not asking the court to review these issues but to remand for (1) an evidentiary hearing on her ineffective assistance of counsel claim and (2) to remand for an

evidentiary hearing because both the District court and the Court of Appeals used the wrong standard of law in deciding her case. The district court ruled that the issue could not be presented in the motion 2225 because it was already presented in direct Appeal but is not true. No delay in sentencing and judgement was presented under the right to assistance of counsel or Due Process . Nevertheless, the Third Circuit took a different approach and said that the issue was procedural defaulted because it was not presented on direct appeal. So it seems that both courts have a contrary view of what the standard of law is in this case. It is well known that claim of ineffective assistance of counsel are mostly presented in post-conviction motions and not on direct appeals. Petitioner respectfully submits that she was deprived of fundamental fairness and the assistance of counsel not only during trial but also at sentencing under pretenses masqueraded by defense counsel. Petitioner' s oppressive deprivation of liberty under a lie shocks the conscience when she planned her life counting on a false credit.

As grounds for this petition for rehearing, petitioner states the following:

1. Ms de Jesus was deprived of an effective assistance of counsel

This colloquy took place during trial:

THE COURT: So I have no reason to not give her the benefit of that. But I think that might alleviate the concerns of the Government, and I think it would be fair -- any period of house arrest would be obviously credited to any eventual imprisonment term I might impose upon her. (Transcript at 643)

During months defense counsel masqueraded the court's statement as true and even recommended to Ms. de Jesus to follow all the conditions as to get her credit. Nevertheless at the time of sentencing the crude misrepresentation by defense counsel came to light when the court denied the statement.

As stated on the record:

TRIAL COUNSEL: Well, my client recalls that at that at that time Your Honor indicated that you were giving her house arrest, but that she would get credit for the time she was in.

THE COURT: I never said that. I challenge that.  
(Sentencing Transcript 49-9 to 49-13)

When considering a § 2255 motion, a district court must "accept the truth of the movant's factual allegations unless they are clearly frivolous on the

basis of the existing record.” United States v. Tolliver, 800 F.3d 138, 141 (3d Cir. 2015) (quoting United States v. Booth, 432 F.3d 542, 545 (3d Cir. 2005)).

Additionally, a district court must hold an evidentiary hearing on the motion if “the files and records do not show conclusively that [the movant] was not entitled to relief.” Id. quoting Solis v. United States, 252 F.3d 289, 294 (3d Cir. 2001). Ms. de Jesus did not get an evidentiary hearing

Glover and Williams presented that defendant’s right to effective assistance of counsel protects against being deprived, due to counsel’s errors, of any substantive or procedural right to which the law entitles even, if the deprivation consists of but one day of incarceration more than what the law requires. Thus, deprivation of “any substantive or procedural right” caused by a breach of the standard of care satisfies Strickland’s prejudice prong in this case.

2. De Jesus respectfully submits that she was improperly denied an evidentiary hearing in which she could establish her claim of ineffective assistance of counsel. Petitioner humbly presents to this Honorable Court that it was not ok for the court to make that statement if the credit was not going to be honored and she was deprived of an effective assistance of counsel when defense counsel engaged in misrepresentation during months. Petitioner was deprived of liberty under oppressive delay in sentencing and judgment and her right to appeal was delayed. Petitioner have already served her sentence and she just wants to move on with her life and attend law school to help disadvantaged communities. Unfortunately her case is still carrying collateral consequences as she was denied her family visa petition from her son and facing deportation. it is undeniable that defense counsel actually denied the record. Nevertheless , the granting of an evidentiary hearing does not mean that petitioner might be successful in her motion but this fact is irrelevant when the record shows the she was deprived of fairness and justice by defense counsel multiples incompetent actions during trial and sentencing. Petitioner’ s sentence was imposed in violation of sixth Amendment right to effective assistance of counsel.

## CONCLUSION

For the foregoing reasons, petitioner Angela de Jesus Concepcion prays that this Court (1) grant rehearing of the order denying her petition for writ of certiorari in this case, (2) vacate the Court's December 7, 2020, order denying certiorari, and (3) remand to the Third circuit for an opportunity to just an evidentiary hearing.

Respectfully submitted,

Dated: December 24, 2020

  
Angela de Jesus Concepcion in Propria Persona

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**CERTIFICATE IN PROPIA PERSONA**

As the petitioner of this case, I hereby certify that this petition for rehearing is presented in good faith and not for delay.



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**CERTIFICATE OF SERVICE**

I, Angela de Jesus Concepcion In Propria Persona, certifies that, pursuant to Rule 29. I served the preceding Petition for Rehearing on counsel for the Respondent (1) by mailing, on December 24, 2020, a copy of these documents via priority United States mail to:

The Honorable Jeff Wall  
Solicitor General of the United States  
Room 5614, Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

A handwritten signature in black ink, appearing to be 'Angela de Jesus Concepcion', written over a horizontal line.

Angela de Jesus Concepcion

**Supreme Court of the United States  
Office of the Clerk  
Washington, DC 20543-0001**

December 7, 2020

Scott S. Harris  
Clerk of the Court  
(202) 479-3011

Mr. Adam Wayne Toraya  
Adam W. Toraya, Esq.  
24 Commerce Street, #1000  
Newark, NJ 07102

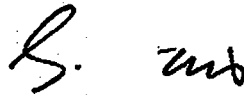
Re: Angela.de Jesus-Concepcion  
v. United States  
No. 20-6259

Dear Mr. Toraya:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari is denied.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Harris", is written over the printed name.

Scott S. Harris, Clerk