

CASE NO. 20-6796

IN THE SUPREME COURT OF THE UNITED STATES

SIMON A. SANCHEZ (PETITIONER)

V5

LEGAL MAIL
Provided to Florida State Prison on
3/17/21 for mailing by ~~SS~~ S.S.

MARK S. INCH, SECRETARY, FLORIDA DEPARTMENT OF
CORRECTIONS, ET AL., (RESPONDENTS)

ON PETITION FOR CERTIORARI TO THE UNITED
STATES COURT OF APPEAL, FOR THE ELEVENTH CIRCUIT

PETITION FOR REHEARING

RESPECTFULLY SUBMITTED,



SIMON A. SANCHEZ / PRO SE

DOC NO. J38918

FLORIDA STATE PRISON

P.O. Box 800

RAIFORD, FLORIDA 32083

TRISHA MEEBS PATE

RESPONDENT / ATTORNEY GENERAL

THE CAPITOL, PL-01

TALLAHASSEE, FLORIDA 32399

(850) 414-3300

RECEIVED

MAR 29 2021

OFFICE OF THE CLERK
SUPREME COURT, U.S.

INTERVENING CIRCUMSTANCES OF SUBSTANTIAL AND CONTROLLING EFFECT FOR GRANTING REHEARING

IN ORDER TO REACH THIS HONORABLE COURT, SANCHEZ LITIGATED THIS INTERVENING CAUSE, PRO SE SINCE 2010 AND OVERCAME ALL JURISDICTIONAL, PROCEDURAL OR TIME BARS IMPOSED, WITH THE GOOD FAITH IN GOD AND THE JUDICIAL SYSTEM HOPING FOR JUSTICE, EQUAL PROTECTION AND DUE PROCESS OF LAW.

WITH THOSE PRINCIPLES DEEPLY AT HEART, SANCHEZ DID EVERYTHING HE COULD (AS AN IMPRISONED PRO SE LITIGANT) TO COME CLEAR OF ANY DELAYS FOR INTERVENING DIRECT REVIEW IN THIS CAUSE ON THE MERITS; AGAINST THE NEGLIGENT ACTS AT TRIAL THAT RESULTED IN SANCHEZ DEPRIVATION OF LIFE, LIBERTY, JUSTICE AND DUE PROCESS THAT EVEN THE COURT BELOW (11TH CIRCUIT) RECOGNIZED IN ITS COA ORDER (PETITION APPENDIX D, 14-15) IN WHICH THIS HONORABLE COURT HAS UNDENIABLE JUDICIAL DISCRETION TO INTERVENE THE JUSTICE COMMITTED IN THIS CAUSE.

TO THAT EXTENT, OTHER THAN THE FACT THAT SANCHEZ PRESENTED HIS TYPED PETITION WITH SOME HANDWRITTEN CORRECTIONS (DUE TO LAW LIBRARY RELUCTANCE TO CORRECT) ALBEIT LEGIBLE, THERE WAS NOTHING DENIABLE IN THIS CAUSE. TO THE CONTRARY, THERE IS TOO MANY COMPELLING INTERVENING REASONS FOR

REVIEW ON certiorari and to do otherwise is a denial of equal protection, justice and due process.

For instance, the same intervening circumstances of substantial and controlling effect were clearly illustrated academically by this honorable court decision in Apprendi v New Jersey, 530 U.S. 668, 104 S. CT 2348, 147 L. Ed 435 (2000) with Justice Stevens opinion joined by Justices Scalia, Souter, Thomas and Ginsburg JJ., it was held that Apprendi sentence cannot be enhanced based on facts not mentioned in the indictment, not submitted to a jury and not proved beyond a reasonable doubt.

As explained in ground one of his petition, Sanchez sentence was equally enhanced as in Apprendi supra, with extra violations of mandatory presumptions that amplified its evil as illustrated in Sandstrom v Montana, 422 U.S. 510, 99 S. CT. 2450 (1979).

In short, has this honorable court intervene and exercise its undeniable judicial discretion as it did in Apprendi and Sandstrom supra, Sanchez unjustifiable illegal enhancement sentence of twenty (20) extra years would have a substantial and controlling effect in the justice system as a whole. thus, doing justice and equal protection not only to Sanchez, but to

UNaccountable other Litigants Placed in the same exactly situation. IN Particular because the claim is Very simple, straight-Forward and easy to resolve with the Lens of Apprendi and Sandstrom supra, For:

1) The state Fail to include the Facts necessary For deadly weapon enhanced sentence in the indictment;

2) the Victim got Caught on impeachment testifying That it was a black Revolver used to commit the Robbery, Rather than the Piece of BB Gun Presented by the state as An ingredient of deadly weapon;

3) The Prosecutor Preconceived statement in his closing arguments that "the trial Judge Going to instruct that BB Gun is absolutely a deadly weapon, which coincided precisely with the trial Judge;

4) withholding of the Piece of BB Gun Factors, in the Jury instruction, and instead telling the Jurors in a Recursive manner that "IF you Find that 'deadly weapon is a deadly weapon', you should Find him Guilty of Robbery with deadly weapon" which;

5) ultimately Restricted the Jury From Any Factual assessment of whether the Piece of BB Gun "was" or "was not" the deadly weapon involved in the case or deadly weapon at all (Petition Page 19-31).

what's more is that the Federal Lower court (11th circuit) explicitly Recognize those Factors to be a

Constitutional Violations and trial Counsel Failure to object prejudice sánchez sentence enhancement (COA order 14-15). Nonetheless, a Recognition thereafter ignored by deviating from COA explicit and certified terms.

therefore, such departure from the usual and accepted course of COA proceedings, enumerated in Title 28 U.S.C. section 2253 (c)(3); Fed. R. App. P. 22(b); > BENNETT V GRATEFORD, 2018 U.S. APP. Lexis 7505, 886 F.3d 269 at 280; and DAVIS V STRACK, 2001 U.S. APP. Lexis 23399, were the secondary intervening circumstances of substantial and controlling effect for this honorable court certiorari Review.

IN conclusion, sánchez Ground one of his Petition for certiorari, at least, Require Rehearing; this is Sánchez Last Resort to Repair the ultimately and manifest deprivation of twenty (20) years of his life and liberty by the acts and omissions at trial, in which the Respondents or the courts below never disputed. Indeed, For the Love of God, who is Justice of all Justices and Judge of all Judges who watching over this proceedings, sánchez Ask and urges this honorable court not to cut his life and liberty short of twenty (20) years due to simple technicalities over substance, controlling effect and

Justice.

Like wise, Sanchez ground three of his petition is very simple, straightforward and easy to understand, and instructive for intervening circumstances of substantial and controlling effect, in this honorable Court certiorari decision in Romilla V Beard, 545 U.S. 374, 125 S. Ct. 2456, 162 L. Ed. 2d (2005),

where trial counsel sequential actions and inactions, same as Sanchez case, produced illegal sentence as explained in explicit details in Sanchez ground three of his petition for certiorari: review, which require rehearing.

Conclusion

For the Above mentioned, and other, intervening circumstances of substantial and controlling effect, this honorable Court should grant rehearing at least on ground one or three of Sanchez petition for writ of certiorari.

Respectfully submitted,

Simon A. Sanchez / JS38918

F.S.P.-main unit, P.O. 800

Rawford, Florida 32083