No. 20-7057

IN THE SUPREME COURT OF THE UNITED STATES

ROMARIO VERMOND WALLER PETITIONER

Vs.

STATE OF ARKANSAS RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

SUPREME COURT OF ARKANSAS

PETITION FOR WRIT OF CERTIORARI

Presented by

Romario Vermond Waller

ADC 108263 *Pro Se*

P.O. Box 400

Grady, AR. 71644

QUESTION(S) PRESENTED

1. Did the Trial Judge in case no 1995-CR-545 violate Petitioner's **5th**, **6th**, **14th**, Amendment rights when he sentenced Petitioner to a more than 20% (twenty percent) upward enhancement departure from the 29.1-31.5 presumptive sentence range based upon aggravating factors not charged in the indictment, not admitted by Petitioner at trial, no found to exist at trial by the judge, nor submitted to or found to exist by a jury but merely added to the judgment and commitment order the day after trial?
2. Did the use of false aggregating enhancement factors used to increase Petitioner's statutory mandatory sentencing range of 29.1-31.5 years to an imposed 40 year sentence violate Petitioner's rights under the **5th**, **6th**, **14th Amendments**?
3. Did the Trial judge in case no 1995-CR-627 and 1996-CR-038 violate Petitioner's rights under the **5th**, **6th**, and **14th Amendments** by adding sentences and convictions for those cases to Petitioner's judgment and commitment order although there was never any trial or sentencing in any court of law in those cases?
4. Has the State of Arkansas Supreme Court violated the **14th Amendment** by determining 1993 Ark. Code Ann 16-90-801 thru 804 did not apply to Petitioner's Plea Agreement when the Arkansas Legislative intent specified those guidelines governed all negotiated plea agreements. i.e., is that decision contrary to Arkansas law/Federal Law and Constitution?

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:

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TABLE OF AUTHORITIES CITED

Cases

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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 _____ 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 United States District 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.

[✓] For cases from **state courts**:

The opinion of the Highest State Court to review the merits appears at Appendix **A** to the petition and is

[✓] reported at **ROMARIO WALLER v. State OF ARKANSAS 2020 ARK 381** ; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the **LINCOLN COUNTY CIRCUIT** court appears at Appendix **B** to the petition and is

[✓] reported at **ROMARIO WALLER v. State 40CV-19-136** ; 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 _____.

[ ] 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 (date) on (date) in Application No. A .

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 **November 19, 2020** . A copy of that decision appears at Appendix **A** .

[✓] A timely petition for rehearing was thereafter denied on the following date: _____ , and a copy of the order denying rehearing appears at Appendix **C** .

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. _____.

The jurisdiction of this Court is invoked under **28 U. S. C. § 1257(a)**.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitution 5th, 6th, and 14th Amendments.

Ark. Code Ann. § 16-65-108

Ark. Code Ann. § 16-90-801, 803, 804 (1993-1995)

Ark. Code Ann. § 16-112-103

Ark. Code Ann. § 16-112-108, 109

STATEMENT OF THE CASE

On August 20, 1995 the Petitioner Romario Vermond Waller was arrested by El Dorado Arkansas Police Department and put in Union County Jail.

On August 21, 1995, I was taken before municipal Court Judge Vanhook, who told me I was "charged with First Degree Murder, how do you plead?" I stated "Insane." Judge Vanhook stated "You can't plead insane." I was ordered to plead not guilty, and taken back to jail on a $250,000 bail. Around November 1995 David Talley (public Defender) visited me and told me he's my lawyer. He told me the Prosecutor has a deal, if you give a statement on why you killed Denise Biggers, she will drop the murder to manslaughter and give you 10 years in prison and you will be out in three years. The Family want to know what happened. I gave my attorney David Talley the true story. I never heard from him again until May 29th, 1996 when without any prior notification I was taken to a room annexed to Union County Circuit Court Thirteenth District First Division (a juvenile Court) where Juvenile Court Judge Larry Chandler presided. In the room was Public Defender David Talley and Prosecutor Vicky Lowery, and my mother. David Talley told me Vicky Lowery changed her mind, you have to plead guilty and take 40 years or she will give you a life sentence." I asked him "What happened to the deal for 10 years on manslaughter?" and David Talley stated: "I forgot to get the deal on the table in

paper, so now she's going to play your statement to the jury and give you a life sentence." I was then taken before Juvenile Court Judge Larry Chandler who told me "there's a plea bargain for forty years on First Degree Murder to which the Prosecutor Vicky Lowery and Public Defender David Talley confirmed.

Pursuant to A.C.A. § 16-90-801 thru § 16-90-804 The legislature of Arkansas enacted Arkansas Sentencing Guidelines which statutorily changed the mandatory minimum and maximum sentencing ranges for all felony guilty pleas for First Degree Murder. The Sentencing range was set at 29.2 – 31.5 years when a Defendant plead guilty and was sentenced by the judge in a bench trial. The ranges were set in a sentencing standards grid. The only exception was that the judge could make upward or downward departures from the presumptive sentence term of 5% based upon written findings of fact/ aggravating or mitigating enhancement factors, based upon facts of the case found to exist at trial. The sentencing Guidelines became effective March 16, 1993 and were mandatory. On May 29, 1996 the Petitioner Romario V. Waller was sentenced to (40) forty years in prison due to his plea of guilty to first degree murder which is a 30% upward departure. The upward departure is based upon the trial judge post trial finding that 17 aggravating factors authorized the upward departure in CR-95-545. The aggravating factors were not submitted to a jury determination that they were true existing facts and were not charged in the indictment, and Romario Waller never

admitted to these facts at the trial. The Trial Judge also, in a post trial, unofficial action, imposed concurrent (20) year sentences in Case no. 1995-CR-627 (arson) and case no. 1995-CR-038 (battery {2 counts})both cases were used as enhancement factors for the upward departure in the murder sentence, (5) five year suspended imposition of sentence was imposed in all cases.

The enhancement factors for additional sentences were not part of Romario Waller's trial. The Petitioner Romario V. Waller filed a Habeas Petition in Lincoln County Circuit Court alleging the 17 Aggravating factors are false, and that he never was convicted or sentenced in open court in cases no. 1995-CR-627 / 1995-CR-038 thus the convictions and sentences in those cases are null and void. Due to those void convictions and false aggravating enhancement factors the upward departure amounting to 40 years in the case no 1995-CR-545 is unlawful.

The Petitioner also argued the Trial Judge adding the 17 enhancement factors to the judgment and commitment order violated the United States Constitution since the Fourteenth Amendment right to due process and the Sixth Amendment right to trial by Jury, taken together, entitle a criminal Defendant to a jury determination that he is guilty of every element of the crime which he is charged beyond a reasonable doubt, And guarantee the right of a trial prior to being made to suffer a prison sentence for an alleged crime.

The Petitioner Mr. Waller further argued that the Fifth Amendment Due Process clause and the sixth amendment notice and jury trial guarantees require that any fact other than prior conviction that increases the maximum penalty for a crime must be charged in an indictment, submitted to a jury, and provided beyond a reasonable doubt. The Fourteenth Amendment commands the same when a state statute is involved The Habeas Petition was filed as **ROMARIO V. WALLER V. STATE OF ARKANSAS 40CV-19-136**. Without requiring the State of Arkansas to respond to the Petition, or to produce evidence from the record to prove Romario V. Waller is not illegally detained as described above and in the Habeas petition, the Lincoln County Circuit Court Dismissed Petition.

Mr. Waller appealed to Arkansas Supreme Court which declined to grant Habeas Corpus to effect a resentencing consistent with the sentencing ranges set in Arkansas Sentencing Guidelines. The appeal is filed as **ROMARIO V. WALLER V. STATE,SUP. CT. OF ARK. CV-20-146**. The Court found Waller's sentences in each case exceeded the statutory maximum however, and remanded the cases to the Trial Court for the entering of an amended sentencing order while not directing the new sentence be within the statutory ranges set in Arkansas Sentencing guidelines which were the mandatory sentencing laws applicable to Mr. Waller. Due to its governance of negotiated plea agreements the Arkansas Supreme Court

opinion is reported at **ROMARIO WALLER V. STATE 2020 ARK 381**, S.Ct. Ark Nov 19, 2020

Mr. Waller timely requested a reconsideration of Arkansas Supreme Court decision on November 25, 2020, it was filed in Arkansas Supreme Court December 2, 2020. Mr. Waller asked Arkansas Supreme Court to consider that he was committed to prison without a trial in case no. CR-627/ CR-038 and although the Court determined the 5 year suspended sentence in CR-545/CR-038 exceeded the maximum sentence the court failed to rule the same in CR-627 though that entire sentence was both excessive and likewise illegal.

I also ask the court to reconsider that its order ruled Arkansas Sentencing Guidelines did not apply to my negotiated plea agreement though the Statute Legislatively governed all negotiated pleas.

REASONS FOR GRANTING THE PETITION

I.

In Cases no 1995-CR-627 and 1996-CR-038 the Petitioner is detained under void conviction and sentence which he never had a trial on and which conviction and sentence were never pronounced in an open court to Petitioner.

In Case no 1995-CR-627 (Arson) and 1996-CR-038 (Battery – 2 courts) Union County Circuit Court Judge Chandler, Cited on the Judgment and Commitment Order that Waller had appeared before the court and was found guilty due to a plea agreement and thus sentenced as follows: 1995-CR-627 arson – 20 years imposed / 5 years Suspended Imposition of sentence; 1996-CR038 – Battery – 2- counts – 20 years / 5 years Suspended imposition of sentence imposed each count. However there actually was no such trial in those cases. On this issue, Arkansas Supreme Court ruled: "A judgment rendered without notice to the parties is void. **SIDES V. KIRCHOFF, 316 ARK 680, 874 S.W2D 373 (1984)** (citing **Ark. Code Ann. § 16-65-108 (Rep. 1993)**."

This court has acknowledged that notice had the opportunity to be heard in a criminal matter as to void a judgment and that such issues will not be waived for purposes of post conviction relief, By the failure to raise them at trial. **TORNAVACCA V. STATE 2012 ARK 224, 408 S.W.3D 727**. When a sentence is void, the Circuit Court lacks authority to impose it. **JACKSON V. KELLEY, 2020**

ARK 255, 602 S.W.3D. 743. Waller's claims that the Circuit Court convicted and sentenced him for offenses that were not addressed in the plea hearing is therefore cognizable in Habeas proceedings" (APPENDIX A, P.5). **Ark. Code Ann. § 16-112-103 (a)(1)** mandates Habeas Corpus shall be granted to any Petitioner who shows by affidavit or other evidence, probable cause to believe he is illegally detained." Although Petitioner submitted affidavits to this effect (APPENDIX B. P. 31, 32, 33) The Arkansas Supreme Court determined: "Nevertheless he failed to demonstrate that the convictions and sentences for arson and Battery are void for lack of notice. Apart from Waller's bare allegations, He provides no substantiation for his claim other than self-serving affidavits attached to his petition." (APPENDIX A, P.5).

The Court thereby abrogated the states Habeas Corpus Laws by making Petitioner's affidavits showing his probable cause of no effect, though **§ 16-112-103** make affidavits relevant evidence. **Ark. Code Ann. § 16-112-109** mandates "The officer having custody [of Waller] to either deliver to the habeas court every examination and information in his custody relating to the commitment, or exhibit the Writ to the Trial Court/clerk who shall deliver the examinations or proofs relating to the commitment to the officer having Petitioner [Waller] in custody, so this information be delivered to the Habeas Court.

Neither Lincoln County Circuit Court, nor Arkansas Supreme Court required Case No. 1995-CR-545 Trial Record, Transcript, or recording be produced though these are the only sources of information which can factually show if there was a trial

conviction/sentence pronounced in case no. 1995-CR-627/ 1996-CR-038; Though Arkansas Law required it.

As such, the Arkansas Supreme Court and Lincoln County Circuit Court issued rulings which are contrary to the legislative intent of **A.C.A. § 16-112-109**; and U.S. Constitution. For this reason the Courts of the State of Arkansas are in conflict with the legislative enacted laws. The Petitioner is continually illegally detained for void convictions and sentences as a result. Though Arkansas Supreme Court quoted its own prior decisions: "**SIDES V. KIRCHOFF**; **Ark. Code Ann. § 16-65-108 (rep. 1993)**; **TORNAVACCA V. STATE**, **JACKSON V. KELLEY**/ As to confirm a judgment rendered without notice, trial, opportunity to be heard is void, The Court however took action against its own precedents by upholding Romario Waller's convictions in case no. 1995-627 and 1996-038 though I never had a trial in those cases.

The United States Supreme Court should grant the petition for Writ of Certiorari since I am illegally detained for criminal convictions never pronounced by a court of law and which I never plead to in a court of law, and the **5th**, and **14th** Amendments required that a trial be had in those cases prior to my having been committed to the loss of liberty.

It is axiomatic that a conviction upon a charge – not tried constitutes a denial of due process, **COLE V. ARK 333 US 196**; **PRESNELL V. GEORGIA 439 US 412**.

These standards no more than reflect a broader premise that has never been doubted in our constitutional system, that a person cannot incur a loss of liberty without a meaningful opportunity to be heard. **HOVEY V. US 409, 420**; **BODDIE V. CONNECTICUT 401 US 371, 379** / Ark. Code Ann. § 16-65-108.

II.

In Case No. 1995-CR-545 The Petitioner was sentenced to a 30% enhanced sentence based upon 17 false aggravating sentencing factors not charged in the indictment, not admitted by Petitioner at trial, not found to exist at trial by the judge and not submitted to the jury for factual findings.

The Arkansas Sentencing Guidelines (A.C.A. § 16-90-804 (1993)) were mandatory prior to the Courts decision in **BLAKELY V. WASHINGTON 542 US 296, 124 SCT 2531, 159 L.ED.2D 403**.

As guidelines stipulated:" When a person charged with a felony enters a plea of guilty... or is found guilty in a trial before the judge sentencing shall follow the procedures provided in this chapter. The presumptive sentence shall be determined but may be departed from pursuant to the procedures outlined in § 16-90-804. The presumptive sentence for any offender of a felony on or after January 1, 1994 is determined by locating the appropriate cell of the sentencing standards grid. (A.C.A.

§ 16-90-803 (1993)); and

"if both sides agree upon a recommended sentence the Judge may choose to accept or reject the agreement based upon the facts of the case and whether or not those facts support the presumptive sentence or a departure (A.C.A. § 16-90-804(1993)).

However, on May 29, 1996 Trial Judge Chandler sentenced Petitioner to a 30% upward departure, i.e. 11 years above the 29.2 year statutory sentence set by the guidelines. Though the statute required such enhancement beyond 5% to be based upon the facts of the case found to exist at trial this process never occurred; Romario Waller was merely taken before the judge who lied to me by telling me the sentencing range was 10-40 years or life, and that if I agreed to the 40 year sentence I'd be eligible for parole in 8-12 years due to good time merits.

No actual facts as alleged in the "information" were discussed at trial, and based upon the sentencing information and good time credit awards creating an -12 year parole , I pled guilty to First Degree Murder and the negotiated 40 year sentence was imposed, due to the Sentencing information Provided by Judge Chandler.

The Statutory elements of First Degree Murder were not discussed, found, or admitted to, or submitted to a jury for findings of fact regarding the offense or sentencing elements.

On May 31, 1996, I signed for a copy of my Judgment and Commitment order which cited an additional 5 years suspended sentence with the 40 year sentence in 1995-CR-545 Murder case along with an Arson, and (2) Battery citations with 20 year concurrent sentences and 5 year suspended Sentences in each case. Though I never had a trial in those cases.

From 1996 through 2009 the Circuit Court Clerk's denied being able to "find" the verbatim recording of my trial. I have been denied access to it since the day of my May 29th, 1996 Trial. In 2000 I began petitioning Arkansas Courts for Habeas Review arguing the Trial Judge violated the **5th** , **6th**, and **14th Amendments** by sentencing me in the manner he did.

In 2018 the Director of the Arkansas Department of Correction delivered me a copy of the departure report attached to the judgment and commitment order, the D.O.C. received though I'd never seen or been provided a copy prior to then, And Arkansas had claimed 18 years it did not exist. The departure report identified 17 aggravating enhancement factors used to "justify" the 30% upward departure (40 year sentence) propounded by the trial judge and prosecutor the day or a time after my trial without my knowledge until 23 years later.

I ask the Court to apply its decision in **BLAKELY V. WASHINGTON 542 US 296, 124 SCT 2511** to my case for several reasons.

First, In the majority opinion in **BLAKELY**, the court stated: "Any evaluation of Apprendi's "fairness" to criminal Defendants must compare it to the regime it replaced, in which a Defendant, with no warning in either his indictment or plea, would routinely see his maximum potential sentence balloon from as little as five years to as much as life imprisonment, see 21 U.S.C. § 841(b)(1)(A),(D), based not on *312 facts proved to his peers beyond a reasonable doubt, but upon facts extracted after trial from a report by a probation officer who the judge thinks more likely got it right than got it wrong. We can perceive of no measure of fairness that would find more fault in the utterly speculative bargaining effects Justice Breyer identifies in the regime he champions. Suffice it to say that if such measure exists, it is not one the framers left us with."

My case is analogues to Apprendi in that exact light, as to Blakely in that not only did my trial judge rely upon false enhancement factors created by himself and the prosecutor but none of those factors related to my murder case as required by A.C.A. § 16-90-804 (1993). And they were neither charged in the indictment, found to exist by the Judge or jury, and not admitted by me at or after trial.

One of the enhancement factors was that I threatened to kill Judge Chandler, although the verbatim trial recording show I was totally respectful and remorseful at my trial. Surely the **5th**, **6th**, and **14th Amendments** required that before Judge Chandler enhanced my sentence from a range of 29.2-31.5 years to 40 years, based

partly upon my ALLEGEDLY threatening his life, that a jury of my peers review evidence of this, and find it to be fact, as with the other 16 factors. The Court has ruled "with regard to federal law, the fifth, and sixth Amendments due process clause and the Sixth Amendment's notice and Jury Trial guarantees require that any fact other than a prior conviction that increases maximum penalty for a crime must be charged in an indictment, submitted to a jury, and proved beyond a reasonable doubt." **JONES V. U.S. 526 U.S. 227, 119 S.CT. 1215, 143 L.ED.2D .311**.

With the enactment of **A.C.A. § 16-90-801 et seq. (1993)** the maximum sentence Judge Chandler statutorily could impose based solely on the facts of the case was 36 years which is a 5% upward departure from the maximum 31.5 in the 29.2-31.5 year sentencing range. My judgment and commitment order reflects a 36 year presumptive sentence also.

It is my argument that since Judge Chandler failed to make judicial fact finding at my trial and having me concede those facts, and he failed to base his enhancement upon the facts of the case and failed to have a jury to find those facts then my lawful sentence should not have exceeded the 29.2-31.5 year range, thus my 40 year sentence based upon uncharged and unfound false facts is illegal and unconstitutionally imposed as it is also excessive from what **A.C.A. § 16-90-801 et. seq. (1993)** allowed.

See **McMillian v. Pennsylvania 447 US 79, 106 SCT 2411, 91 L.Ed. 2d 67** was the first case in which the court used "sentencing factor" to refer to a fact that was not found by a jury but could affect the sentence imposed by the judge. In finding that the scheme at issue there did not run afoul of Winships strictures, This court did not budge from the position that (1) constitutional limits exists to states authority to define away facts necessary to constitute a criminal offense, **477 US at 88, 106 S.Ct 2411** and (2) a State scheme that keeps from the jury facts exposing defendants to greater or additional punishment may raise constitutional concerns, id. at **88, 106 S.Ct. 2411**

See Also **Jackson v. Virginia 443 US 307**. "In short, Winship presupposes as an essential of the due process guaranteed by the Fourteenth Amendment that no person should be made to suffer the onus of a criminal conviction except upon, sufficient proof – defined as evidence necessary to convince a Trier of fact beyond a reasonable doubt of the existence of every element of the offense. "under Winship, which established proof beyond reasonable doubt as an essential of due process it follows that when such a conviction occurs in a state trial it cannot constitutionally stand." (Jackson Supra).

The Trial, sentence, and conviction levied against me by Union County Circuit Court was in absolute violation of those constitutional standards. The Trial Court went father by not even giving me a trial in 1995-CR-627/1996-CR-038; but

used those false convictions and 17 false enhancement factors to give me an unlawful sentence.

The Supreme Court, Mr. Justice Stewart held "Where a trial judge in imposing sentence for bank robbery conviction gave explicit consideration to three previous felony convictions, two of which were constitutionally invalid, having been obtained in violation of right to counsel, and it appeared that the bank robbery sentence might have been different if the sentencing judge had known that at least two of the previous convictions had been unconstitutionally obtained, the case was properly remanded for reconsideration of sentence," and "We deal here not with a sentence imposed in the informed discretion of a trial judge, but with a sentence founded at least in part upon misinformation of constitutional magnitude. As in **TOWNSEND V. BURKE 334 US 736, 68 S.CT 1252, 92 L.ED. 1690** "This prisoner was sentenced on the basis of assumptions about his criminal record which were materially untrue. Id at **741, 68 S.CT. AT 1255**; and

"The real question here is not whether the Florida and Louisiana proceedings would have been different if the respondent had counsel, but whether the sentence in the 1953 Federal case had been unconstitutionally obtained. We agree with the court of appeals that the answer to this question must be "yes" (**U.S. V. TUCKER 404 US 443, 92 S.CT. 589, 30 L.ED.2D 592**). Those same unconstitutional actions of the

Trial Judge as in **US V. TUCKER** and **TOWNSEND V. BURKE** occurred at my May 29, 1996 Trial.

According to **A.C.A. § 16-90-803 (a)(1)(A) (1993)** the sentencing guidelines governed negotiated guilty pleas thus created a different range of punishment from jury verdicts. I Petition the Court to review and decide my case on the merit in light of at least those decisions I've referred to herein.

The Arkansas Supreme Court ruled **A.C.A. § 16-90-801 et. seq. (1993)** DID NOT APPLY TO NEGOTIATED PLEA AGREEMENTS though the **A.C.A. § 16-90-801** specifies; "When a person charged with a felony enters a negotiated plea, or is found guilty in a trial before the judge, ... sentencing shall follow the procedures provided in this chapter."

Arkansas Supreme Court's decision clearly contradicts the legislative intent of the statute. Arkansas Supreme Court consistently rules that "Sentencing in Arkansas shall not be other than in accordance with the statute in effect at the time of the commission of the crime, Where the law does not authorize the particular sentence pronounced by the Trial Court that sentence is unauthorized and illegal, and the case must be reversed and remanded." **BROWN V. STATE 155 S.W. 3D 22** citing **STATE V. FOUNTAIN 350 ARK 437, 440, 88 S.W.3D 411, 413 (2002)**. However, though **A.C.A. § 16-90-801 et seq. (1993)** Arkansas sentencing guidelines governed my sentence and the Trial Judge violated the sentencing laws of that statute Arkansas Supreme Court ruled contrary to its own established precedent of

law. The Court ruled: "when a Defendant pleads guilty , the State is free to seek judicial sentence enhancements so long as the Defendant either stipulates to the relevant facts or consents to judicial fact finding" (**BLAKELY V. WASHINGTON 542 US 296, 124 S.CT. 2531, 159 L.ED. 2D 403** citing **APPRENDI V. US 530 US AT 488, 120 S.CT. 2348**; **DUNCAN V. LOUISIANA 391 US 145, 158, 88 S.CT. 1444, 20 L.ED. 2D 491 (1968)**.

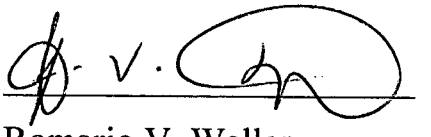
The Trial Judge in my case followed an unconstitutional sentence enhancement process and for this reasons violated the State Sentencing Guideline procedure in the process making my sentence unconstitutional, in violation of my federal rights:" This rule reflects two longstanding tenets of common law criminal jurisprudence: that the "truth of every accusation" against a Defendant " should afterwards be confirmed by the unanimous suffrage of twelve of his equals and neighbors" **4 Blackstone commentaries on the laws of England 343 (1769)**; and "an accusation which lacks any particular fact which the law makes essential to punishment is ... no accusation within the requirements *302 of the common law, and it is no accusation in reason" **BLAKELY V. US 542 US 406**

I Petition the Court to review and decide my case on the merit in light of at least those decisions I've referred to herein.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Romario V. Waller

A.D.C. # 108263

Date: ~~February 10~~ 1-22, 2021