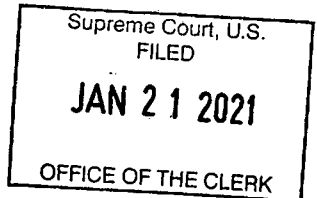


No. _____

20-7077 ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES



DERRICK L. BROWN — PETITIONER
(Your Name)

VS.

UNITED STATES OF AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

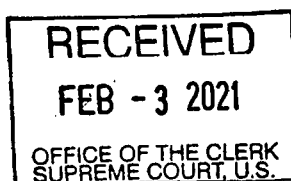
PETITION FOR WRIT OF CERTIORARI

DERRICK L. BROWN #20986-076
(Your Name)

U.S.P. AXX - P. O. BOX 8500
(Address)

FLORENCE, COLORADO 81226
(City, State, Zip Code)

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(Phone Number)



QUESTION(S) PRESENTED

- 1) "WHETHER THE FIRST STEP ACT SECTION-401(a)(1)(57) AND (58) OF TITLE III-SENTENCING REFORM, WHICH IS IN LINE WITH UNITED STATES V. RODRIQUEZ, 553 U.S. 377, AT 389-90 (2008) AND CARACHURI-ROSENDO V. HOLDER, 560 U.S. 563, AT 577 n.12 (2010) OF THE U.S. SUPREME COURT APPLIES TO YOUR PETITIONER'S CASE? AND, IF SO, WHETHER BOTH LOWER COURTS ERRED IN DISREGARDING, IGNORING AND NOT ADDRESSING THE MERITS OF THESE ISSUES?"
- 2) "WHETHER THE GOVERNMENT WAS PRECLUDED FROM USING ANY OF THE PETITIONER'S PRIOR CONVICTIONS IN LIGHT OF THE FIRST STEP ACT-401(a)(1)(57) AND (58) OF TITLE III-SENTENCING REFORM, WHICH IS IN LINE WITH UNITED STATES V. RODRIQUEZ, 553 U.S. 377, AT 389-90 (2008) AND CARACHURI-ROSENDO V. HOLDER, 560 U.S. 563, AT 577 n.12 (2010)? AND, IF SO, WHETHER THE PETITIONER IS ACTUAL INNOCENT OF COUNTS-1 AND -2 (i.e., 18 U.S.C. § 922(g) AND 18 U.S.C. § 931(a)) AND ALL OF THE FEDERAL ENHANCEMENTS UNDER THE UNITED STATES SENTENCING GUIDELINES, THE PRESENT-ENCE INVESTIGATION REPORT, § 4B1.4: ARMED CAREER CRIMINAL AND 18 U.S.C. § 924(c): ARMED CAREER CRIMINAL ACT, WHICH ALL REQUIRED THE USE OF THE PETITIONER'S PRIOR CONVICTIONS AS QUALIFYING OFFENSES THAT THE GOVERNMENT WAS PRECLUDED FROM USING?"
- 3) "WHETHER PETITIONER'S COURT APPOINTED COUNSEL HAD A CONFLICT OF INTEREST WITH HIS CLIENT? AND WHETHER HIS COUNSEL VIOLATED HIS 6TH AMENDMENT RIGHT TO THE EFFECTIVE ASSISTANCE OF COUNSEL, DUE TO HIS ACTIONS?"

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:

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE WRIT	5-8
CONCLUSION.....	8

INDEX TO APPENDICES

- APPENDIX A- THE DECISION OF THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT IN CASE NUMBER # 20-5312, DATED OCTOBER 22nd 2020 (FOUR-PAGES)
- APPENDIX B- THE DECISION OF THE UNITED STATES DISTRICT FOR THE WESTERN DISTRICT OF TENNESSEE- WESTERN DIVISION IN CASE NUMBER # 2:06-cr-20180-STA, DATED MARCH 2nd 2020 (NINE-PAGES)
- APPENDIX C- FIVE-PAGE MOTION TO MODIFY AND/OR REDUCE SENTENCE PURSUANT TO THE FIRST STEP ACT OF 2018 AND 18 U.S.C. § 3582 (C)(1)(B) WITH FOUR-PAGE MEMORANDUM OF LAW IN SUPPORT
- APPENDIX D
- APPENDIX E
- APPENDIX F

TABLE OF AUTHORITIES CITED

CASES

	PAGE NUMBER
1) CARACHURI-ROSENDO V. HOLDER, 560 U.S. 563, AT 577 n.12 (2010) --	4, 5, 6, 7, 8
2) UNITED STATES V. HALTIWANGER, 637 F.3d 881, AT 884 (8TH CIR. 2011) -	5
3) UNITED STATES V. LOCKETT, 782 F.3d 349, AT 352-53 (7TH CIR. 2015) -	5
4) UNITED STATES V. RODRIQUEZ, 553 U.S. 377, AT 389-90 (2008) - - - -	4, 5, 6, 7, 8
5) UNITED STATES V. SIMMONS, 649 F.3d 237, AT 243-44 (4TH CIR. 2011) -	5

STATUTES AND RULES

1) FIRST STEP ACT OF 2018 P.L. 115-135, SECTION 401 (a)(1)(57) & (58) - - -	4, 5, 6, 7, 8
2) UNITED STATES SENTENCING GUIDELINES § 4B1.4:ACC - - - - -	6, 8
3) 18 U.S.C. § 922(g) - - - - -	5, 8
4) 18 U.S.C. § 924(e):A.C.C.A. - - - - -	6, 8
5) 18 U.S.C. § 931(a) - - - - -	5, 8
6) 18 U.S.C. § 3559(c)(2) - - - - -	6
7) 18 U.S.C. § 3582(c)(1)(B) - - - - -	4
8) 21 U.S.C. § 851 - - - - -	6

OTHER

1) ACTUAL INNOCENT - - - - -	4, 5, 6, 8
2) CLEAR AND COMPLETE MISARRIAGE OF JUSTICE - - - - -	5, 6, 7
3) FUNDAMENTAL UNFAIRNESS - - - - -	5, 6, 7

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 "A" 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 "B" 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 _____ 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 _____ 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.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was OCTOBER 22nd 2020.

☒ 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 _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied 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. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- 1) AMENDMENT - I: THE RIGHT TO PETITION THE GOVERNMENT FOR A REDRESS OF GRIEVANCES
- 2) AMENDMENT - II: THE RIGHT TO NOT BE DEPRIVED OF LIFE, LIBERTY, OR PROPERTY; AND DUE PROCESS
- 3) AMENDMENT - VI: THE RIGHT TO THE EFFECTIVE ASSISTANCE OF COUNSEL
- 4) AMENDMENT - VIII: THE TO BE FREE FROM CRUEL AND UNUSUAL PUNISHMENT
- 5) AMENDMENT - XIV: THE RIGHT TO EQUAL PROTECTION OF THE LAWS

STATEMENT OF THE CASE

1) ON DECEMBER 21ST, 2018, THE PRESIDENT SIGNED INTO LAW THE FIRST STEP ACT OF 2018, PUB. L. 115-135. SECTION-401 OF THE ACT REDUCES CERTAIN ENHANCED MANDATORY MINIMUM PENALTIES FOR SOME DRUG OFFENDERS AND THE TYPES OF PRIOR OFFENSES THAT CAN TRIGGER ENHANCED PENALTIES. IN OTHER WORDS, THE GOVERNMENT IS AND WILL BE PRECLUDED FROM USING OUR PRIOR CONVICTIONS AS ANY QUALIFYING OFFENSES. YET, THIS IS ALREADY U.S. SUPREME COURT LAW AND PRECEDENT THAT APPLIES ALREADY AND ALL AROUND THE BOARD IN THE U.S. SUPREME COURT'S DECISIONS IN UNITED STATES V. RODRIQUEZ, 553 U.S. 377, AT 389-90 (2008) AND IN CARACHURI-ROSENDO V. HOLDER, 560 U.S. 563, AT 577 n.12, 130 S.Ct. 2577, 177 L.Ed. 2d 68 (2010); SO, SECTION-401 NEEDED NOT TO BE MADE RETROACTIVE AT ALL!

2) YOUR PETITIONER IMMEDIATELY FILED HIS OWN FIRST STEP ACT MOTION UNDER 18 U.S.C. § 3582(C)(1)(B) (5-PAGES) WITH A MEMORANDUM OF LAW IN SUPPORT (4-PAGE). SEE APPENDIX-C AT INDEX OF APPENDICES. AMONG SEVERAL OTHER ISSUES, YOUR PETITIONER SPECIFICALLY ARGUED SECTION-401 THAT THE GOVERNMENT WAS AND IS INDEED PRECLUDED FROM USING ANY OF HIS PRIOR CONVICTIONS, AND, DUE TO SUCH, THAT HE IS ACTUAL INNOCENT OF ANY AND ALL FEDERAL ENHANCEMENTS AND COUNTS-1 AND 2, WHICH ALL REQUIRED THE USE OF HIS PRIOR CONVICTIONS AS QUALIFYING OFFENSES. WHICH SECTION-401 WAS ALREADY WELL-SETTLED LAW AND U.S. SUPREME COURT PRECEDENT AND IN LINE WITH U.S. V. RODRIQUEZ, SUPRA, AND CARACHURI-ROSENDO V. HOLDER, SUPRA.

3) THEREAFTER, THE LOWER COURT APPOINTED FEDERAL PUBLIC DEFENDER-TYRONE J. PAYLOR FROM THE FEDERAL PUBLIC DEFENDER'S OFFICE OF WHO YOUR PETITIONER HAS A CONFLICT OF INTEREST WITH HIM, HIS COLLEAGUE AND THEIR OFFICE, DUE TO PENDING INEFFECTIVE ASSISTANCE OF COUNSEL COMPLAINT AGAINST THEM WITH COUNSEL/DIRECTOR-BEVERLY P. SHARPE OF THE BOARD OF PROFESSIONAL RESPONSIBILITY OF THE SUPREME COURT OF TENNESSEE-CONSUMER ASSISTANCE PROGRAM-10 CADILLAC DRIVE-SUITE 220-BRENTWOOD, TENNESSEE 37027 (615) 361-7500, WHICH THE LOWER COURT HAD KNOWLEDGE OF AND KNEW ABOUT, YET, THE COURT STILL APPOINTED HIM AND SOMEONE FROM THEIR OFFICE.

4) IN HIS OWN FILINGS TO THE ON YOUR PETITIONER'S BEHALF, HIS COURT APPOINTED ATTORNEY JUST DISREGARD, IGNORED AND REFUSED TO RAISE AND ARGUE SECTION-401 ~~4W~~ U.S. V. RODRIQUEZ, SUPRA, AND CARACHURI-ROSENDO V. HOLDER, SUPRA, AND EVEN ON APPEAL!

4) ON MARCH 2ND, 2020, DISREGARDING, IGNORING AND REFUSING TO ADDRESS THE MERITS OF ANY OF YOUR PETITIONER'S GROUNDS, CLAIMS AND ARGUMENTS, THE LOWER COURT ONLY ADDRESSED THE ATTORNEY'S CLAIMS AND ARGUMENTS IN DENYING HIS FIRST STEP ACT MOTION. (SEE ORDER AT APPENDIX-B).

5) COURT APPOINTED COUNSEL REFUSED AND FAILED TO FILE YOUR PETITIONER'S FIRST APPEAL AS OF RIGHT AND FORCED HIS CLIENT TO FILE ONE ON HIS OWN EVEN AFTER HE WAS TOLD TO DO SO IN A LETTER.

6) YOUR PETITIONER RAISED THESE ISSUES AND ARGUMENT ON APPEAL, YET, THE LOWER APPELLATE COURT JUST DISREGARDED AND IGNORED ALL OF THOSE ISSUES AND NEVER ADDRESSED OR RULED ON THE MERITS OF THOSE ISSUES IN THEIR OCTOBER 22ND, 2020 ORDER AFFIRMING THE LOWER COURT'S ORDER. SEE APPENDIX-A OF APPEALS COURT ORDER AT INDEX OF APPENDICES.

REASONS FOR GRANTING THE PETITION

THIS HONORABLE COURT SHOULD EXERCISE ITS DISCRETIONARY JURISDICTION BECAUSE OF SUCH NATIONAL IMPORTANCE FOR ALL OF ITS LOWER COURTS TO FOLLOW LAW AND ORDER; THAT ALL PARTIES RIGHTS BE AFFORDED, AFFORDED, HONORED AND UPHELD; THAT ALL U.S. SUPREME COURT PRECEDENT BE ADHERED TO; AND THAT ALL COURTS AND COURT APPOINTED ATTORNEYS DUE UPHOLD AND PROTECT ALL PARTIES RIGHTS OF THE U.S. CONSTITUTION (i.e., THE RIGHT TO GRIEVE THE GOVERNMENT BY PETITION; THE RIGHT TO BE HEARD; DUE PROCESS; THE RIGHT TO APPEAL; THE EFFECTIVE ASSISTANCE OF COUNSEL; AND EQUAL PROTECTION *et al.*) AND THIS HONORABLE COURT SHOULD DECIDE THE QUESTIONS INVOLVED IN THIS ACTION.

YOUR PETITIONER ASSERTS AND CONTENTS THAT THE LOWER COURTS WERE OBLIGATED AND REQUIRED TO ACCEPT, ADDRESS, HEAR AND TO GRANT HIS CLAIMS, ISSUES, ARGUMENTS AND GRANT HIM RELIEF, DUE TO HIM BEING ACTUAL INNOCENT OF ALL FEDERAL ENHANCEMENTS, SENTENCES, CONVICTIONS AND INDICTMENTS OF 18 U.S.C. § 922(g) (COUNT-1) AND 18 U.S.C. § 931(g) (COUNT-2) IN LIGHT OF SECTION-401 OF THE FIRST STEP ACT THAT NEEDED NOT TO BE RETROACTIVE BECAUSE, AS ALREADY APPLIED ALL ACROSS THE SENTENCING BOARD, SECTION-401 WAS AND IS ALREADY WELL-SETTLED U.S. SUPREME COURT PRECEDENT AND APPLIED IN ALL CIRCUITS AND LOWER DISTRICT COURT BECAUSE IT IS IN EXACT LINE WITH THE U.S. SUPREME COURT'S PRECEDENT IN UNITED STATES V. RODRIGUEZ, 553 U.S. 377, AT 389-90 (2008) AND CARACHURI-ROSENDO, 560 U.S. 563, AT 577 n.12, 130 S.Ct. 2577, 177 L.Ed.2d 68 (2010); SEE ALSO UNITED STATES V. HALTIWANGER, 637 F.3d 881, AT 884 (8TH CIR. 2011); UNITED STATES V. SIMMONS, 649 F.3d 237, AT 243 (4TH CIR. 2011); AND UNITED STATES V. LOCKETT, 782 F.3d 349, AT 352 (7TH CIR. 2015), YET, THE LOWER DISTRICT COURT, BY A CLEAR AND COMPLETE MIS-CARRIAGE OF JUSTICE AND A FUNDAMENTAL UNFAIRNESS, DID DEPRIVED, DENIED AND VIOLATED YOUR PETITIONER'S ABOVE U.S. CONSTITUTIONAL RIGHTS IN THESE REGARDS AND JUST LET AN INNOCENT INDIVIDUAL REMAIN IN PRISON BY DISREGARD AND IGNORING HIS CLAIMS THAT HAD MERITS AND DENIED HIM HIS MOTION AND ANY RELIEF UNDER THE FIRST STEP ACT, PREJUDICIAL TO YOUR PETITIONER!

YOUR PETITIONER ASSERTS AND CONTENTS THAT THERE WAS A CONFLICT OF INTEREST WITH THE FEDERAL PUBLIC DEFENDER AND THEIR OFFICE, DUE TO PENDING INEFFECTIVE ASSISTANCE COMPLAINTS AGAINST THEM, AND HIS COURT APPOINTED ATTORNEY WAS INEFFECTIVE FOR NOT RAISING AND ARGUING ANY OF HIS CLIENT'S MOTION CLAIMS IN HIS LOWER COURT FILINGS BECAUSE, HAD HE DONE SO, HIS CLIENT'S MOTION WOULD NOT HAVE BEEN DENIED; WOULD HAVE BEEN GRANTED; WOULD HAVE GOTTEN RESENTENCE, COUNTS-1 AND-2 WOULD HAVE BEEN DISMISSED; ALL ENHANCEMENTS WOULD HAVE BEEN REMOVED AND ONLY FACED A SENTENCE AS A FIRST-TIME OFFENDER; WOULD HAVE POSSIBLY BEEN SENTENCED TO TIME-SERVED; AND HAVING ALREADY SERVED OVER 14 YEARS, HE WOULD HAVE BEEN IMMEDIATELY RELEASED AND AT HOME! YET, HIS ATTORNEY DID THE OPPOSITE, RAISED WEAKER ISSUES AND NOT THE STRONGER ISSUES, CAUSING HIS CLIENT TO LOSE HIS MOTION, AND AS OF RIGHT, HIS CLIENT DID NOT FILE HIS CLIENT'S APPEAL AT ALL! EXTREMELY PREJUDICIAL TO YOUR PETITIONER IN VIOLATION OF HIS CLIENT'S RIGHTS UNDER THE U.S. CONSTITUTION TO THE EFFECTIVE ASSISTANCE OF COUNSEL!

YOUR PETITIONER ASSERTS AND CONTENTS THAT HE WAS FORCED TO FILE HIS OWN APPEAL WITHOUT COUNSEL AND THE LOWER APPEALS COURT DID EXACTLY AS THE LOWER DISTRICT COURT BY DISREGARDING AND IGNORING THESE ISSUES IN HIS APPEAL THAT ALL HAD MERIT, AND AFFIRMED THE LOWER COURT'S DECISION IN VIOLATION OF THESE ABOVE LAWS AND HIS UNITED STATES CONSTITUTIONAL RIGHTS. WHEREFORE, THIS HONORABLE COURT MUST INTERVENE, PLEASE?

YOUR ACTUAL INNOCENT PETITIONER ASSERTS AND CONTENDS THAT, DUE TO ALL OF THE INJUSTICE, CLEAR AND COMPLETE MISARRANGE OF JUSTICE, FUNDAMENTAL UNFAIRNESS, AND ILLEGAL, UNLAWFUL, WRONGFUL AND UNCONSTITUTIONAL INDICTMENTS (COUNT-1 & 2), CONVICTIONS, ENHANCEMENTS (i.e., § 4B1.4 AND 18 U.S.C. § 924(e)(1)(A), (C), (A)) AND SENTENCES, HE CLEARLY SOUGHT JUSTICE AND RELIEF BY WAY OF THE FIRST STEP ACT SECTION-401 THAT WAS CLEARLY IN LINE WITH THE U.S. SUPREME COURT'S PRECEDENT IN U.S. V. RODRIQUEZ, SUPRA, AND CARACHURI-ROSENDO V. HOLDER, SUPRA, SO, SECTION-401 NEED NOT HAVE TO BEEN MADE RETROACTIVE AT ALL BECAUSE IT'S CHANGED CONDITIONS AND NEW DEFINITIONS OF THE "SERIOUS DRUG FELONY" AND "SERIOUS VIOLENT FELONY" IS ALREADY WELL-SETTLED LAW AND PRECEDENT THAT APPLIES ALL THE WAY AROUND THE BOARD TO ALL SENTENCING PHASES! YET, AFTER YOUR PETITIONER CLEARLY RAISED THESE MERITOUS CLAIMS AND ARGUMENTS IN HIS FIRST STEP ACT MOTION IN THE LOWER DISTRICT COURT, THE LOWER DISTRICT COURT DISREGARDED THEM, IGNORED THEM AND DENIED COUNSEL'S MOTION AND RELIEF (WHOM COUNSEL NEVER RAISED OR ARGUED HIS CLIENT'S ISSUES IN HIS FILINGS NOR ON APPEAL)! AND, AFTER YOUR PETITIONER WAS FORCED TO DO HIS OWN APPEAL WITHOUT COUNSEL, HE RAISED ALL OF THESE ISSUES, YET, THE LOWER APPEALS COURT DISREGARDED THEM, IGNORED THEM AND AFFIRMED THE LOWER DISTRICT COURT'S DECISION!

YOUR PETITIONER ASSERTS AND CONTENDS THAT THE BASIS OF HIS MERITOUS CLAIMS AND ARGUMENT WERE AS FOLLOWS: "DUE TO SECTION-401 OF THE FIRST STEP ACT, WHICH CLEARLY STATES, SECTION-401: DRUG OFFENSES - THE FIRST STEP ACT MADE CHANGES TO BOTH THE LENGTH OF CERTAIN MANDATORY MINIMUM PENALTIES AND THE TYPES OF PRIOR OFFENSES THAT CAN TRIGGER ENHANCED PENALTIES. MANDATORY MINIMUM PENALTIES - CHANGES TO § 851 - ENHANCEMENTS FOR REPEAT OFFENDERS: THE FIRST STEP ACT NOT ONLY REDUCED THE MANDATORY MINIMUM PENALTIES, BUT ALSO CHANGED THE CONDITIONS UNDER WHICH THEY APPLY. HIGHER MANDATORY MINIMUM PENALTIES APPLY IN THE DEFENDANT HAS A PRIOR CONVICTION FOR A "SERIOUS DRUG FELONY" OR FOR A "SERIOUS VIOLENT FELONY" AND THE PROSECUTION FILES A NOTICE OF ENHANCEMENT UNDER 21 U.S.C. § 851. NOW, UNDER THE FIRST STEP ACT, THE DEFENDANT'S PRIOR CONVICTIONS MUST MEET THE NEW DEFINITIONS OF "SERIOUS DRUG FELONY" OR "SERIOUS VIOLENT FELONY." THE DEFENDANT MUST HAVE SERVED A TERM OF IMPRISONMENT OF MORE THAN 12-MONTHS ON THE PRIOR OFFENSE AND MUST HAVE BEEN RELEASED WITHIN 15-YEARS OF THE CURRENT FEDERAL OFFENSE. IN ADDITION, FOR ANY "SERIOUS DRUG FELONY" OR A "SERIOUS VIOLENT FELONY" BASED ON 18 U.S.C. § 3559(c)(2), THE OFFENSE MUST HAVE BEEN PUNISHABLE BY IMPRISONMENT OF TEN(10)-YEARS OR MORE. THIS IS IN EXACT LINE WITH THE U.S. SUPREME COURT'S DECISIONS IN U.S. V. RODRIQUEZ, 553 U.S. 377, AT 389-90 (2008) AND CARACHURI-ROSENDO V. HOLDER, 560 U.S. 563, AT 577 n.12, 130 S.Ct. 2577, 177 L.Ed.2d

68(2010)(quoting UNITED STATES V. RODRIGUEZ, 553 U.S. 377, AT 389-90 (2008)), WHICH HELD THAT, "WHEN A RECIDIVIST FINDING GIVING RISE TO A TEN(10)-YEAR SENTENCE IS NOT APPARENT FROM THE SENTENCE ITSELF, OR APPEARS IN NEITHER THE 'JUDGMENT OF CONVICTION' NOR THE 'FORMAL CHARGING DOCUMENTS,' THE GOVERNMENT WILL NOT HAVE ESTABLISHED THAT THE DEFENDANT HAD A PRIOR CONVICTION FOR WHICH THE MAXIMUM TERM OF IMPRISONMENT WAS TEN(10)-YEARS OR MORE." IN OTHER WORDS, AS THIS COURT CLEARLY STATED, "IT MAY WELL BE THAT THE GOVERNMENT WILL BE PRECLUDED FROM ESTABLISHING THAT A CONVICTION WAS FOR A QUALIFYING OFFENSE." *Id.* AT 1791. SEE ALSO CARACHURI-ROSENDO, 130 S.Ct. AT 2857 N.12. THEREFORE, YOUR DEFENDANT ASSERTS AND CONTENDS THAT THE GOVERNMENT WAS AND STILL IS PRECLUDED FROM USING ANY OF HIS PRIOR STATE COURT CONVICTIONS FOR ANY QUALIFYING OFFENSE BECAUSE, IN ALL OF HIS PRIOR STATE COURT CONVICTIONS (SEVEN USED BY THE GOVERNMENT), HE ENTERED "ALFORD PLEAS" AGREEMENTS MAINTAINING HIS COMPLETE INNOCENCE. IN ALL OF THOSE ALFORD PLEAS, THE STATE GOVERNMENT AGREED TO NEVER EVER USE ANY OF YOUR DEFENDANT'S PRIOR CONVICTIONS AT ALL FOR ANY CRIMINAL HISTORY POINTS, CATEGORIES, OR ANY RECIDIVIST ENHANCEMENTS, OR FOR ANY FUTURE CHARGES, OR ANY RECIDIVIST ENHANCEMENTS, OR FOR ANY FUTURE CHARGES, SO, THE STATE GOVERNMENT NEVER EVER CAUSED YOUR DEFENDANT TO FACE ANY RECIDIVIST ENHANCEMENTS AT ALL, AND NEVER PROVIDED HIM WITH ANY NOTICES OF SUCH RECIDIVIST ENHANCEMENTS AT ALL, NOR ANY DETERMINATIONS OF SUCH. HIS PRIOR CONVICTIONS NEVER EVER DID MEET, NOR DOES NOT NOW MEET BOTH THE OLD AND NEW DEFINITIONS OF "SERIOUS DRUG FELONY" OR "SERIOUS VIOLENT FELONY" AT ALL. HE DID NOT EVER SERVED ANY TERM OF IMPRISONMENT OF MORE THAN 12-MONTHS IN ANY OF HIS PRIOR STATE OFFENSES AT ALL BECAUSE HE ONLY RECEIVED "JAIL CREDITS" OF "TIME-SERVED" SENTENCES RANGING FROM ELEVEN(11)-MONTHS AND TWENTY-NINE(29)-DAYS TO THREE(3)-YEAR SENTENCES AND WAS SHORTLY RELEASED. SINCE THE PASSING OF THESE FIRST STEP ACT'S LAWS AND REQUIREMENTS, IT HAS NOW BEEN PAST 15-YEARS OF THE CURRENT OFFENSES SINCE YOUR DEFENDANT HAVE BEEN RELEASED ON ANY OF THOSE PRIOR STATE CONVICTIONS AND, DUE TO THE DEFENDANT'S ALFORD PLEAS OF MAINTAINING HIS INNOCENCE, ALL OF HIS PRIOR CONVICTIONS WERE ALL LESSER INCLUDED OFFENSES AND WERE NOT AT ALL PUNISHABLE BY OF IMPRISONMENT OF TEN(10)-YEARS OR MORE, SO, IT IS CRYSTAL CLEAR THAT NONE OF YOUR DEFENDANT'S PRIOR STATE CONVICTIONS WERE EVER "SERIOUS DRUG FELONIES" NOR "SERIOUS VIOLENT FELONIES" AT ALL AND COULD NOT EVER BE CONSIDERED SUCH THEN AND NOW, ESPECIALLY UNDER THE FIRST STEP ACT'S NEW DEFINITIONS AND U.S. SUPREME COURT'S ALREADY EXISTING PRECEDENT!" WHEREFORE, BASED ON THE ABOVE STATEMENTS AND FACTS, BY A CLEAR AND COMPLETE MISCARriage OF JUSTICE, AND A FUNDAMENTAL UNFAIRNESS,

YOUR PETITIONER IS INDEED AND CLEARLY ACTUAL INNOCENT OF ANY AND ALL OF THOSE FEDERAL ENHANCEMENTS UNDER THE UNITED STATES SENTENCING GUIDELINES, THE PRESENTENCE INVESTIGATION REPORT, § 4B1.4 AND THE 18 U.S.C. § 924(c) ARMED CAREER CRIMINAL ACT (WHICH WAS NEVER CHARGED IN HIS INDICTMENT), AND IS INDEED AND CLEARLY ACTUAL INNOCENT OF COUNTS -1: 18 U.S.C. § 922(g) AND COUNT-2: 18 U.S.C. § 931(a), WHICH ALL REQUIRED THE USE OF HIS PRIOR CONVICTIONS TO INDICT, CHARGE, CONVICT, ENHANCE AND SENTENCE YOUR PETITIONER TO AN ILLEGAL, UNLAWFUL, WRONGFUL, EXCESSIVE AND UNCONSTITUTIONAL 387-MONTHS (32-YEARS) IN FEDERAL PRISON, WHICH THE GOVERNMENT WAS AND IS NOW PRECLUDED FROM EVER USING ANY OF HIS PRIORS AT ALL FOR ANY QUALIFYING OFFENSE! WARRANTING IMMEDIATE RELIEF AND RELEASE IN LIGHT OF SECTION-401 OF THE FIRST STEP ACT THAT IS IN LINE WITH THIS COURT'S PRECEDENT IN U.S. v. RODRIQUEZ, SUPRA, AND CARACHURI-ROSENDO V. HOLDER, SUPRA. IF THIS COURT DOES NOT INTERVENE, AN ACTUAL INNOCENT PETITIONER WILL REMAIN IN FEDERAL PRISON UNDER THESE CONTINUED INJUSTICES AND U.S. CONSTITUTIONAL VIOLATIONS.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

RLD #20986-076

Date: JANUARY 19, 2021