

DERRICK LAKEITH BROWN #20986-076
PETITIONER,

VS.

CASE NO. # 20-7077

UNITED STATES OF AMERICA
RESPONDENT,

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE SIXTH CIRCUIT.

PETITION FOR REHEARING

PURSUANT TO THE UNITED STATES SUPREME COURT RULE-44,
YOUR APPELLANT PRESENTS ITS PETITION FOR A REHEARING OF THE
ABOVE ENTITLED CAUSE, AND, IN SUPPORT OF IT, RESPECTFULLY SHOWS:

GROUND FOR REHEARING

A REHEARING OF THE DECISION IN THE MATTER IS IN
THE INTEREST OF JUSTICE BECAUSE: OF THE DISTINCTIONS IN
THE QUESTIONS AND THE ISSUES OF THIS CASE THAN IN TERRY VS.
UNITED STATES, NO. #20-5904; AND OF THE RETROACTIVITY REQU-
IREMENTS OF SECTION-401(a)(1)(S7) & (S8) *et seq.* OF THE FIRST STEP
ACT, IN ORDER FOR IT TO APPLY TO THIS CASE IS IN DIRECT CON-
FLICT WITH THE COURT'S TWO(2)-EARLIER PRECEDENT CASES OF UN-
ITED STATES VS. RODRIQUEZ, 553 U.S. 317, AT 389-90 (2008) AND
CARACHURI-ROSENDO VS. HOLDER, 560 U.S. 563, AT 577 D. 12, 130 S.
CT. 2517, 177 L.Ed. 2d 68 (2010), WHICH RULED THAT SUCH ENHAN-
CEMENT REQUIREMENTS NEED NOT BE MADE RETROACTIVE BEC-
AUSE THEY APPLY ALL THE WAY AROUND THE BOARD (i.e., IMMAGRA-
TION & NON-IMMIGRATION CASES) IN ALL SENTENCING PHASES,
THEREFORE, SECTION-401(a)(1)(S7) & (S8) OF THE FIRST STEP ACT
SHOULD BE APPLICABLE TO THIS CASE WITHOUT RETROACTIVITY.

1. ON JUNE 21ST 2021, THIS COURT DENIED THE PETITION FOR
WRIT OF CERTIORARI.

2. THE PRINCIPAL GROUND CITED POSSIBLY IN THE COURT'S
PER CURIAM OPINION WAS, AS REQUESTED BY THE RESPONDENT
(SEE MEMORANDUM FOR THE UNITED STATES), THAT THE CRUCIAL
ISSUE HAD BEEN FULLY AND COMPLETELY DETERMINED BY THE RU-
LING OF THIS COURT IN TERRY VS. UNITED STATES, NO. #20-5904,
A CASE DECIDED A MERE 30+ DAY BEFORE THE DECISION IN
THIS CASE.

3. THE GROUND FOR THE RULING IN TERRY VS. UNITED STATES,
NO. #20-5904 CAME AS A SURPRISE TO PETITIONER. PETITIONER
HAD EXPLAINED THE CRUCIAL ISSUES IN THIS CASE CAREFULLY (SEE
ORIGINAL CERTIORARI PETITION AND THE ORIGINAL BRIEF

IN SUPPORT THAT WAS PLACED IN MY CASE FILE FOLDER BY THE CLERK), AND WAS AWARE THAT A RELATED FIRST STEP ACT ISSUE WAS PENDING IN TERRY VS. UNITED STATES, #20-5904, BUT THE PARTIES IN THAT CASE DID NOT EXTENSIVELY BRIEF THE SEPARATE ISSUES IN THIS CASE THAT WAS CRUCIAL TO THE COURT'S DECISION IN THAT CASE. A DECISION IN THE TERRY VS. UNITED STATES, NO. #20-5904 CASE WAS EXPECTED ONLY ON UNRELATED ISSUES.

4). PETITIONER WAS NOT GRANTED ANY OPPORTUNITY BY THE COURT TO DISTINGUISH THIS CASE FROM THE TERRY VS. UNITED STATES, NO. #20-5904 CASE OR TO SUGGEST WHY THEY SHOULD NOT BE DETERMINED BY THE SAME RULE.

5). THIS CASE CONTAINS SEVERAL CRUCIAL FACTUAL AND PROCEDURAL DISTINCTIONS FROM THE CASE OF TERRY VS. UNITED STATES, NO. #20-5904 THAT WARRANT ITS DETERMINATION BY A DIFFERENT OR AT LEAST ALTERED RULE.

a) YOUR PETITIONER'S FIRST FACTUAL OR PROCEDURAL DISTINCTION IS THAT HE SPECIFICALLY ARGUED THAT THE ENHANCEMENT REQUIREMENTS AND QUALIFICATIONS OF SECTION-401(a)(1)(S7) & (S8) ALREADY DOES APPLY TO HIS CASE WITHOUT RETROACTIVITY AND DOES NOT HAVE TO BE MADE RETROACTIVE IN ORDER TO BE APPLICABLE TO HIS CASE, AND TERRY, *supra*, SPECIFICALLY ARGUED SECTION-404 *et seq.*

b) YOUR PETITIONER'S SECOND FACTUAL OR PROCEDURAL DISTINCTION IS THAT HE SPECIFICALLY ARGUED THAT THE ENHANCEMENT REQUIREMENTS AND QUALIFICATIONS OF SECTION-401(a)(1)(S7) & (S8) THAT MUST BE MADE RETROACTIVE IN ORDER TO BE APPLICABLE TO HIS CASE WAS AND IS IN DIRECT CONFLICT & VIOLATION OF THIS COURT'S TWO(2)-PRECEDENT CASES OF UNITED STATES VS. RODRIQUEZ, *supra*, AND CARACHURI-ROSENDO VS. HOLDER, *supra*, AND TERRY, *supra*, SPECIFICALLY ARGUED THAT SECTION-404'S COURT DISCRETION SHOULD BE EXTENDED TO § 841(a)(1) & (b)(1)(C) FOR A SENTENCE REDUCTION.

c) YOUR PETITIONER'S THIRD FACTUAL OR PROCEDURAL DISTINCTION IS THAT HE SPECIFICALLY ARGUED THAT IN THIS COURT'S TWO(2)-PRECEDENT CASES OF UNITED STATES VS. RODRIQUEZ, *supra*, AND CARACHURI-ROSENDO VS. HOLDER, *supra*, HELD THAT THOSE EXACT SAME ENHANCEMENT REQUIREMENTS AND QUALIFICATIONS OF SECTION-401(a)(1)(S7) & (S8) NEED NOT TO BE MADE RETROACTIVE IN ORDER TO BE APPLICABLE BECAUSE THEY ALREADY

APPLY ALL THE WAY AROUND THE BOARD (i.e., IN IMMIGRATION & NON-IMMIGRATION CASES) IN ALL SENTENCING CASES, AND TERRY, SUPRA, HAD NO U.S. SUPREME COURT CASES THAT WERE IN CONFLICT AND/OR CONTRARY TO HIS ARGUMENTS OR ISSUES.

6). IN THIS COURT'S TWO(2)-EARLIER DECISIONS OF UNITED STATES VS. RODRIQUEZ, SUPRA, AND CARACHURI-ROSENDO VS. HOLDER, SUPRA, THE COURT HAD NOTED THAT CASES WITH THESE FACTUAL AND PROCEDURAL DISTINCTIONS CONCERNING THE ENHANCEMENT REQUIREMENTS AND QUALIFICATIONS OF SECTION-401(a)(1)(57) & (58) SHOULD NOT HAVE TO BE MADE RETROACTIVE IN ORDER TO APPLY TO THOSE CASES BECAUSE THEY ALREADY APPLY ALL THE WAY AROUND THE BOARD IN ALL SENTENCING CASES AND PHASES, SO, SECTION-401(a)(1)(57) & (58) ENHANCEMENT REQUIREMENTS AND QUALIFICATIONS OF THE FIRST STEP ACT NEED NOT TO HAVE BEEN MADE RETROACTIVE IN ORDER TO APPLY TO YOUR PETITIONER'S CASE AND TO REQUIRE SUCH, EVEN BY CONGRESS, WAS AND IS IN DIRECT CONFLICT AND IN VIOLATION OF THIS COURT'S TWO(2)-CONTROLLING PRECEDENT CASES OF UNITED STATES VS. RODRIQUEZ, SUPRA, AND OF CARACHURI-ROSENDO VS. HOLDER, SUPRA. THEREFORE, THESE FACTUAL AND PROCEDURAL DISTINCTIONS OF THIS CASE ARE EXTREMELY FAR FROM THE ISSUES IN TERRY, SUPRA, AND SHOULD BE TREATED BY A MARKEDLY DIFFERENT RULE OF LAW FROM THOSE PROPERLY APPLICABLE IN THIS COURT'S TWO(2)-CASES OF UNITED STATES VS. RODRIQUEZ, SUPRA, AND CARACHURI-ROSENDO VS. HOLDER, SUPRA, THAT THIS COURT, IN THOSE ORDERS, STATED, WAS APPLICABLE AND CONTROLLING IN ALL SENTENCING CASES AND PHASES AROUND THE BOARD, AND NEED NOT TO BE MADE RETROACTIVE, WHEREFORE, CONTROLLING IN THIS CASE AND APPLICABLE AS WITH SECTION-401(a)(1)(57) & (58) OF THE FIRST STEP ACT, AND AN ISSUE NOT ADDRESSED AT ALL IN TERRY, SUPRA!

7). A REHEARING TIGHTLY AND SQUARELY FOCUSED ON THE DISTINCTIONS BETWEEN THIS CASE AND THE TERRY, SUPRA, CASE AND WHETHER THESE DISTINCTIONS MERIT A DIFFERENT RULE OF LAW, IS A MATTER OF FUNDAMENTAL FAIRNESS TO PETITIONER AND WOULD NOT UNDULY BURDEN THE COURT.

CONCLUSION

WHEREFORE, FOR THE REASONS JUST STATED ABOVE, DERRICK LAKEITH BROWN, ASKS, PRAYS AND URGES THAT THIS PETITION FOR A REHEARING BE ACCEPTED, GRANTED, AND THAT, ON FURTHER CONSIDERATION, THE