

No. 20-7273

**ORIGINAL**

IN THE  
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.  
FILED

JAN 11 2021

OFFICE OF THE CLERK

Patrick Roger Brigaudin — PETITIONER  
(Your Name)

vs.

United States of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals For The Eighth Circuit  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Patrick Roger Brigaudin · Reg. No. 21414-039  
(Your Name)  
Federal Correctional Complex  
P.O. Box 3000 - Medium  
(Address)

Forrest City, Arkansas 72336  
(City, State, Zip Code)

870-494-4200  
(Phone Number)

**QUESTION(S) PRESENTED**

- Whether a prosecutor's threats to a defendant that he would receive a life sentence if he did not accept a plea offer denied him his constitutional right to trial by jury.

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### OTHER

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 is unpublished.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 is unpublished.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 \_\_\_\_\_ 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 is unpublished.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 is unpublished.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 June 12, 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: August 21, 2020, and a copy of the order denying rehearing appears at Appendix B.

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**

- A defendant may appeal a decision by the District Court in a 28 U.S.C. Section 2255 petition denying relief if the sentence
  - (1) Was imposed as a result of a constitutional violation of the defendant's right to trial by jury.

or arrested in any way / shape / or form .

from anyone, he can answer truthfully that he or she has not been threatened when a defendant is asked if he is pleading guilty without, any threats or coercion that this practice raises. These tactics and threats must be eliminated so that practice. No one sees this fault in these "threats". No one sees the ethical challenges that it is tolerated by the judicial system and differing judges, as common courts that is tolerated by the judicial system and differing judges, as common unfortunately, this common practice occurs so often in ~~federal~~ and often be resolved in that manner, he would seek a life sentence.

he preferred the case be resolved by a plea from Brigaudin "but" if it could not

be resolved in terms of a "plea offer." Garrison specifically stated that

U.S. Attorney, Timothy A. Garrison, who sent a "Confidential" E-mail to Brigaudin's

addressing the specific threats that were made by the prosecutor, Assistant

The District Court denied Brigaudin's habeas corpus petition without

for Certification thus follows :

denied a motion for Rehearing or Recharing en banc on Aug. 21, 2017. This request

filed a Motion 2255 motion to Vacate his sentence but was denied and also

the sentence but his attorney filed an "Andrus Brief" and withdrew. Brigaudin then appealed

and 240 months to Count I to run concurrently. Brigaudin then appealed

on March 21, 2018, Brigaudin was sentenced to 360 months to Count 2

accept, in effect, he would be punished if he exercised his right to trial.

If Brigaudin did not accept the plea. Brigaudin was left with no choice but to

of Missouri, through a letter to Brigaudin's attorney, threatened a life sentence

Brigaudin entered into after the Assistant U.S. Attorney in the Western District

Second Superceding Indictment pursuant to a written plea agreement that

On August 1, 2017, Brigaudin pled guilty to two counts of the

## STATEMENT OF THE CASE

protective devices.

"Laid off" with a complicit and other cloud of unfairness in these made by the prosecutor that he unethically made. This renders his sentence the district court abused its discretion by not addressing the direct threats "unreasonable." With respect to the sentence, Brigaudin argues that concluded the advisory Guidelines sentence of life imprisonment was these seemed farfetched when the government, at sentencing, tacitly to be punished for extracisions that right. The threat of a life sentence would then be subjected to a life sentence. This seems like he was going sentence was placed over him. In essence, if he chose to go to trial he was told of an e-mail sent to his counsel and the threat of a life receive a life sentence if he did not accept the "plea offer." Brigaudin Brigaudin placed guilty after his counsel informed him that he would

justic system should not only be fair but appear fair in every aspect of our justice system that is looked upon as the fairest in the land. Our that does not include a life sentence. Is this truly fair in the eyes and ethics with a "life sentence" is more than likely to accept and sign any agreement It is not a stretch to conclude that most any defendant therefore

## **REASONS FOR GRANTING THE PETITION**

Accordingly, this Honorable court should grant Certiorari to address whether Brigaudin's constitutional right to trial was violated by the threat made by the Asst. U.S. Attorney if Brigaudin did not accept the plea offer that was made, essentially punishing Brigaudin for going to trial.

## **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert B. Rubin".

Date: January 5, 2021



U. S. Department of Justice

Thomas M. Larson  
Acting United States Attorney  
Western District of Missouri

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The Hammons Tower Fax (417) 831-0078  
901 St. Louis Street, Suite 500  
Springfield, Missouri 65806-2512

April 10, 2016

Via E-mail  
Confidential

John F. Appelquist  
313 South Glenstone Avenue  
Springfield, Missouri 65802

Re: Plea Offer in *United States v. Patrick Roger Brigaudin*  
Case No. 16-3039-01-CR-S-MDH

Dear Mr. Appelquist:

The purpose of this letter is to offer terms of an agreement to resolve the case pending against Patrick Roger Brigaudin in the Western District of Missouri. As you know, Mr. Brigaudin is charged by indictment with conspiracy to distribute 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine (Count One), conspiracy to commit money laundering (Count Two), attempted possession with intent to distribute 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine (Count Four), three counts of distribution of methamphetamine (Counts Six, Ten, and Eleven), distribution of 50 grams or more of methamphetamine (Count Twenty-Two), laundering of monetary instruments (Count Twenty-Seven), and possession with intent to distribute 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine (Count Thirty-Six).

Subject to the approval of the Acting United States Attorney, I am proposing an agreement that includes the following provisions:

1. Pleas of guilty to Counts One and Two, and admission of Forfeiture Allegation One, of the Second Superseding Indictment;
2. Dismissal of all other counts;
3. As to Count One, a base offense level of 38 pursuant to U.S.S.G. § 2D1.1; and as to Count Two, an offense level of 40 pursuant to U.S.S.G. § 2S1.1(a)(1) and (b)(2)(B);<sup>1</sup>

<sup>1</sup> The offense levels for Counts One and Two would be grouped for a total offense of 40, prior to the reduction for acceptance of responsibility. See U.S.S.G. § 2S1.1, n. 6 and § 3D1.2.

4. A reduction of three levels pursuant to U.S.S.G. § 3E1.1(b) (acceptance of responsibility); and
5. A recommendation from both parties for a sentence within the applicable Sentencing Guideline range.

As to any adjustments to the offense level or criminal history category, the parties would be free to advocate for their any position they deem appropriate.

Were Mr. Brigaudin to proceed to trial, I firmly expect that the substantial evidence in this case would result in convictions on all counts against him. In that event, Mr. Brigaudin would forfeit the reduction for acceptance of responsibility, and the United States would vigorously argue for a four-level enhancement under § 3B1.1. I estimate that this scenario would result in an offense level of at least 43, at which the Guideline sentence is imprisonment for life, regardless of criminal history category. Given the quantities of methamphetamine involved in this conspiracy, its extensive geographic and temporal nature, and Mr. Brigaudin's central role, I would be obliged to argue for a sentence of life imprisonment. It is my strong preference, however, that this case be resolved by plea, and avoid the further delay and expense of a trial.

**The foregoing plea offer will remain available until the pretrial conference on April 18, 2017.**

In light of *Missouri v. Frye*, 566 U.S. 133 (2012) and *Lafler v. Cooper*, 566 U.S. 156 (2012), please acknowledge below that you have discussed this offer with Mr. Brigaudin and return a copy of the signed acknowledgment to me. As always, if you have any questions or concerns, or if I may be of any further assistance, please do not hesitate to contact me.

Sincere regards,



TIMOTHY A. GARRISON  
Assistant United States Attorney

The foregoing has been read, acknowledged, and understood as indicated by my signature on this \_\_\_\_\_ day of April, 2017.

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Patrick Roger Brigaudin

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John F. Appelquist  
Counsel for Mr. Brigaudin