

No. 20-7671

In The

Supreme Court of the United States

Ronald Johnson-EI - Petitioner

VS.

Derek Schmidt, et al - Respondent(s)

On Petition For A Rehearing of Certiorari
De Novo pursuant to 28 USCS 1254, on all merits

United States Federal Court of Appeals for the Tenth Circuit
Name of Court that last Ruled on Merits of this Case

Ronald Johnson-EI
P.O. Box 311, EDCF
79020
EI Dorado, Kansas

67042

Ronald Johnson-EI
7/18/21

Petitioners Motion For Rehearing and/or Modification

Comes now, Ronald Johnson-El, pro-se Petitioner, pursuant to Rule 44 of the Rules of this Court; with complete jurisdiction in accordance with 28 USC § 1257, and 18 USC § 242.

Petitioner, Ronald Johnson-El respectfully request the Court grant Rehearing in this case, and or modify the lower Court's opinion; On the grounds the lower Court's overlooked substantial constitutional violations.

Kansas Supreme Court previously found K.S.A. 21-4635 authorizes a hard 50 sentence, State v. Baker, 281 Kan. 997, 1018, 135 P.3d 1098 (2006), State v. McClain, 291 Kan. 697, 727, 245 P.3d 1030 (2011)

Kansas Supreme Court the held K.S.A. 21-4635 unconstitutional, stating K.S.A. 21-4635 is a sixth amendment violation, because it allows a judge alone to increase ones sentence without the fact finding of a jury...

K.S.A. 21-4635 is a provision of the Kansas hard 50 act. The remedy to correct and or cure the violation has been withheld, then denied in a covin pack way, the remedy that is mandatory by law.

Arguments And Authority

The lower Courts overlooked K.S.A. 21-4639 commands the district court to sua sponte bring petitioner before the court to modify petitioner's sentence in accordance to the mandatory provision to save petitioner from any further violation(s).

K.S.A. 21-4639, renumbered K.S.A. 21-6628(c) 2011 states: "In the event the mandatory term of imprisonment, or any provision of Chapter 341 of the 1994 Session Laws of Kansas authorizing such mandatory term is held to be unconstitutional by the Supreme Court of Kansas or the United States Supreme Court, the Court having jurisdiction over a person previously sentenced shall cause such person to be brought before the court and shall modify the sentence to require no mandatory term of imprisonment and sentence the defendant otherwise provided by law."

The sixth amendment is a substantial protected right. The mandatory modification provision K.S.A. 21-4639/21-6628(c) is the controlling effect to correct the sixth amendment violation which has happen, as the KSC held K.S.A. 21-4635 violates the sixth amendment.

The other substantial grounds not previously mentioned by the state actors, or the lower Courts, is the fact

K.S.A. 21-6628(c), formerly K.S.A. 21-4639 is a "Savings Clause", not a "Fail Safe" provision. K.S.A. 21-6628(c) saves Petitioner from further violations to secured protections.

By all lower Courts and State Courts ignoring then denying the process due in a covid pack way deprived Petitioner of rights due, under color of law; see 18 USC 242, and or all codes that apply.

The Kansas hard 50 act, has the Kansas hard 50 mandatory modification provision, which is the savings clause remedy to correct the fact K.S.A. 21-4635 is a sixth amendment violation established by Kansas Supreme Court.

By the State actors/Defendant(s) ignoring then denying they own state of Kansas laws and constitution and Bill of rights protections due, these defendants violations infringed upon my fifth amendment rights, by thier malicious abuse of legal process.

In Honor,

Ronald Johnson - El

These State actors/Defendants have ignored, then denied my right to the statutory Savings Clause enacted within the Kansas hard 50 act.

The Defendants systematically withheld redress, remedy to well over 50 Kansas prisoners where the established unconstitutional provision K.S.A. 21-4635 was used "Previously" by judge alone.

April 11, 2014 K.S.A. 21-4635 was held unconstitutional by KSC, this is the "Event". All Kansas Courts established prior to 2013 the entire hard 50 act was *sua sponte*; now it somehow needs a vehical?

Conclusion

The Court is requested to grant Rehearing by Petitioner, Ronald Johnson-El, being the lower Courts decisions are in error, and must be withdrawn. Petitioner affirms the remedy within K.S.A. 21-4639/21-6628(c) is mandatory and is required to be administered forthwith by the Defendants, which will only happen by The Court's order, viewing full record.

In Honor, Ronald Johnson-El